

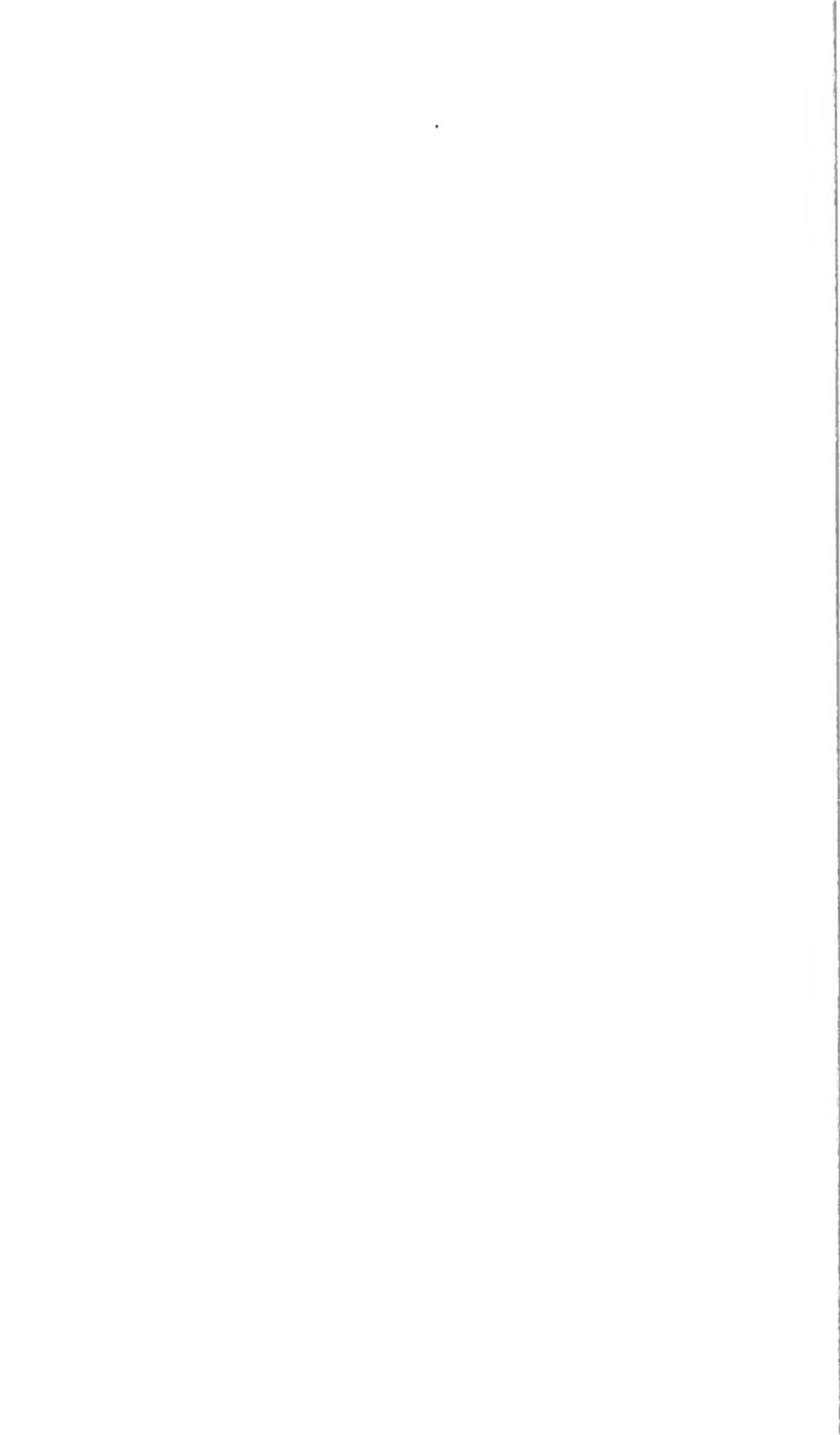


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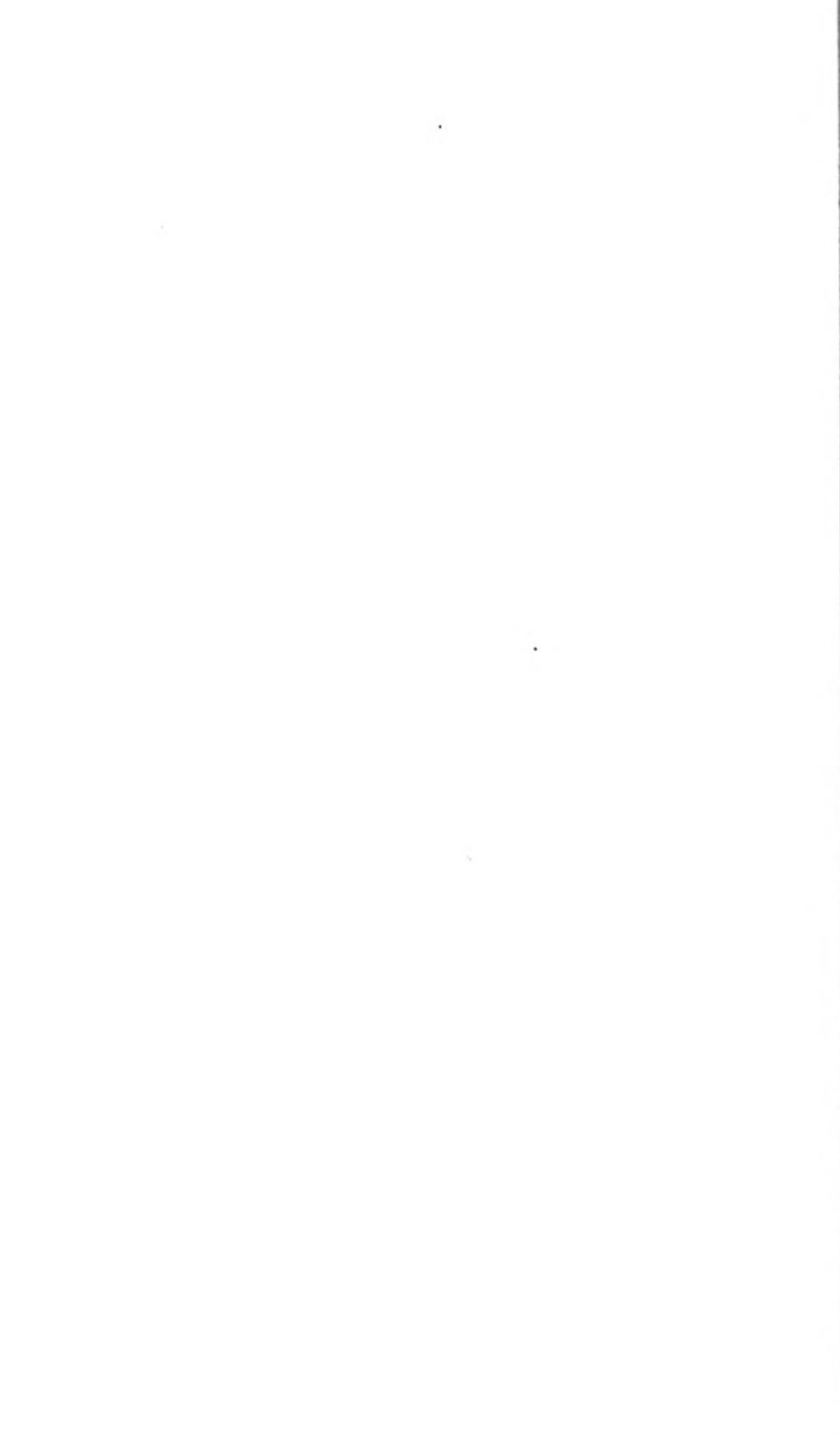


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THE

# HISTORY OF THE UNION,

AND OF THE

# CONSTITUTION.

BEING

THE SUBSTANCE OF THREE LECTURES ON THE COLONIAL, REVOLUTIONARY, AND CONSTITUTIONAL PERIODS OF AMERICAN HISTORY, WITH AN APPENDIX CONTAINING THE CONSTITUTION OF THE UNITED STATES, AND THE VIRGINIA AND KENTUCKY RESOLUTIONS OF '98.

BY C. CHAUNCEY BURR.

"THE LAWS WE REVERENCE ARE OUR BRAVE FATHERS' LEGACY."

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REBIND

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TO ALL WHO LOVE THEIR COUNTRY—THEIR WHOLE  
COUNTRY—AND WHOSE SOULS STAND STOUTLY BY THE UNION,  
THE CONSTITUTION AND THE LAWS, THIS LITTLE VOLUME IS  
SINCERELY DEDICATED.

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## TO THE READER.

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DANIEL WEBSTER declared that : "The quantity of liberty we possess is precisely equal to the quantity of restraint which we put upon the government. And this is the rule. If the Government is restrained from putting its hand in certain particulars upon you, to that extent you are free, and no more. All liberty, therefore, consists in putting such a restraint upon your government that it cannot touch your rights or your liberties."

Those who read these lectures will, we think, be convinced that our fathers supposed they had formed a government which never could be so perverted as to destroy the liberty of the citizen.

Luther Martin said in the Constitutional convention, "States may surrender their rights ; but if they do, their liberties are lost."

This was the idea entertained by all the patriotic founders of our Government.

It will not be denied that the principles set forth in these lectures are those which have formed the political basis of the Democratic party from the time of Thos. Jefferson until now. They have been distinctly enunciated in every National Democratic platform from Jackson to Buchanan. They are still adhered to by every true Democrat. *Democracy* is not a shifting party *policy*, but a *principle*, as unchangeable as human rights. *Policy* is the invention of crafty, and often of dishonest men. *Principles* are the doctrines of nature, which eternally inhere in the fitness of things. They are as

old as the creation of man, and will survive, even though the crimes of selfish men should drive all the institutions of government to destruction.

It will, no doubt, be an easy thing to abuse these doctrines of our fathers—for abuse is as “easy as lying”—but who will attempt to refute them? Who will dare to quarrel with the words of the revolutionary patriots? Who will venture to deny that the only hope of saving our country is in a return to these paths of our fathers?

Ignorance, passion, or blind party zeal may plead that *necessity* calls upon us to trample our Constitution and laws under our feet. Delusion and folly! It is as much as to say that *necessity* calls upon us all to turn traitors to our Government and laws.

It is hoped that the reader will find nothing in these pages that does not inspire his heart with fresh love for the glorious institutions of freedom which we have inherited from our forefathers, and for the UNION, which is the ark of safety to our people.

The extracts found in these lectures are from the following authorities: CHIEF JUSTICE YATES' MINUTES OF THE SECRET DEBATES IN THE CONSTITUTIONAL CONVENTION. ELLIOT'S REPORTS OF THE CONSTITUTIONAL DEBATES. LUTHER MARTIN'S REPORT OF THE PROCEEDINGS OF THE FEDERAL CONVENTION. THE MADISON PAPERS. ARTICLES OF HAMILTON AND MADISON IN “THE FEDERALIST.” THE WORKS OF JEFFERSON. BOTTA'S HISTORY OF THE WAR OF INDEPENDENCE. THE AMERICAN UNION, BY REED. OBSERVATIONS ON STATE SOVEREIGNTY, BY TRUMBULL.

## LECTURE I.

### THE SAXON AND THE NORMAN PRINCIPLES OF GOVERNMENT.

It was Seneca's counsel to his friend Lucilius that when he went before the public he should imagine Cato or Scipio to be present.

I approach this subject with as cautious a respect for the truth of history as though the spirits of the wise and heroic founders of this Government were present in this audience to listen to all I say. My subject does not discuss the events of the present unhappy hour. It does not look to the future.

It turns our faces backwards to the past. It carries us to the places where our fathers stood.

Above the graves of those who founded the republic let us seek to discover the vital, animating principle of government which guided them through the fierce and bloody period of the Revolution, and through the civil conflicts that followed, until their noble work was done, and they rejoiced in the conviction that they had reared a temple of liberty which the hand of time should not destroy.

There is something inexpressibly solemn in this investigation which we commence to-night.

To sit face to face with the venerable dead—to listen again to the voices of their wisdom out of the imperishable words they have left behind—this is a thought that holds our hearts still, and almost stops our breath. Is this a place for politicians to wrangle over? Will you bring here your loads of hate—of partisan lust and

revenge, and throw them down on the silent bosoms of your fathers?

No! Patiently, reverently let us find out their foot-steps, and nobly resolve that we will forsake them nevermore.

The man that does not love his country, turns his back upon himself.

Our country is *ourselves*; for we are all parts of the public system which constitutes the grand edifice of our social and political lives.

The man who even dies for his country, dies for himself, for his children, and for the honor of his forefathers.

It is a family interest that connects him with the glory of his country

What are a few days added to a man's life, compared to the progressive perpetuity of those institutions which are to be the abode of all the descending generations of his offspring? Only as a minute compared to a thousand years.

It is of little moment whether you and I go hence to-day or to-morrow. Every act of ours that bears upon our country's weal or wo is something infinitely greater than our life.

When we come to investigate the origin of the principles of our Government, we must go a great way back of our colonial period.

We must go even behind those long unknown and, except to a few scholars of history, forgotten discoveries of the Scandinavian navigators, who, five hundred years before Columbus, were the first to behold these Western shores.

These principles of government **were not invented**

during our colonial period. Nor were they during our revolutionary, nor our constitutional period. They were not invented at all. They grew up gradually as a tree grows which has its roots in far-off centuries.

Principles which hold up the weight of states and kingdoms are not inventions. They are growths, good or bad, out of time and circumstances.

One layer of time has Providence piled upon another for immemorial ages, every one of which is essential to the integrity of the whole system.

We who live now stand upon the topmost layer; but remove the one beneath us, and we must go down. Remove the lowest strata of all, and the whole pile would tumble in ruins.

Had Greece been different from what it is, Rome would not have been what she was.

Had Rome been different, Saxony and Normandy would not have been what they were.

Had these been different, England would not be what she is.

Had England been different, we should not be what we are—we should not be here to-night.

We are all parts of one stupendous whole, and are making future generations, just as past generations have made us.

Our fathers transmitted a priceless boon of government to us; and, by an eternal law of Providence, we must send it down to our posterity, a *boon* or a *bane*.

As we act to-day, must our children curse or bless our memories.

As we act to-day, shall we transmit to the generations of our offspring the sacred principles of self-government and liberty, or those of anarchy and despotism.

The blood of our fathers was poured out like rain in defense of those principles. And not only of our fathers, but of hundreds of thousands of Saxons in England, even before the time of feudalism.

For old England, under her Saxon kings, was a *kingly confederacy*.

That was the old Saxon idea of liberty, that the people should somehow rule. In their institutions the name of "PEOPLE" was never lost, whether in their furthest antiquity among the forests of Germany, or on the ancient plains of Britainy.

Our fathers, when they began the business of governing themselves, but expanded what the Saxons commenced more than a thousand years ago ; before, indeed, the races of the North of Europe had a history of their own, or a place in the history of the more civilized Southern nations.

And these Anglo-Saxons waded through hundreds of years of blood in noble resistance to the centralizing despotism of the Norman sovereigns.

More than a thousand years ago this battle between the ideas of *local self-government* and of *centralized despotism* crimsoned every field in Britainy.

The principle of *local independence* was the Saxon idea. That of *centralization*, or of all power proceeding from a great and irresponsible center, was the Norman idea. Hence, "when the Saxons conquered Britain, its comparatively small territory was divided into several petty kingdoms or loosely-compacted commonwealths. And again, each of these was parceled out into various other divisions, such as counties, shires, tithings, and other partitions, the origin of which puzzles the antiquarian."

This old Saxon spirit of state independence animated

the local institutions and all the small divisions with an energy and general prosperity that never could have been developed under a strongly-controlling central power.

Under the Saxon principle, the masses of the people flourish. They are *free*, and, therefore, the arbiters of their own destiny. Their very freedom imparts an ambition and an enterprise, which are never seen where the Norman principle of centralized power prevails.

We see this illustrated in the Saxon and Norman periods of English history. When the Norman conqueror subjugated England, and his arms were everywhere victorious, he had a still greater difficulty to encounter in forcing his centralized system upon the necks of those who had been long accustomed to the liberty of local independence.

This struggle was to blot out all those numerous state, county, and shire lines, within which the poorest man found some guarantee of justice, liberty, and prosperity.

Submissive uniformity is the first demand of a tyrant. Every man within the range of his authority must be reduced to his own habits of thinking and ways of living.

William, the Norman conqueror of England, began the business of crushing out the local free institutions of the country, by introducing, for the administration of justice, an office unknown to the Saxon—the office of “*Chief-Justiciar*,” as he was called.

On this subject the biographer of the English chief-justices says : “The office of Chief-Justice, or Chief-Justiciar, was introduced into England by William the Conqueror from Normandy, where it had long existed. The functions of such an officer ill accorded with the

notions of our Anglo-Saxon ancestors, who had a great antipathy to centralization, and prided themselves upon enjoying the rights and the advantages of self-government."

The Norman principle of an all-controlling centralized power is incompatible with the freedom and prosperity of the masses. And yet we hear well-meaning people of the present time, with astonishing blindness, declare that they "*are tired of living in a STATE—they want to live in a COUNTRY.*" They want a stronger central government, than this one built upon the principle of local or state independence by our forefathers. Alas ! they have not counted the cost. They have not studied that painfulest period of history, in which this very thing they now sigh for transpired in England, when local self-government, intrenched in Saxon love of liberty, was all crushed out by the victorious Norman centralizing despotism.

The result of the triumph of this Norman principle was the establishment of unheard of despotism in England, which you all know reduced the masses to a state of villainage, serfdom, or slavery.

William the Conqueror ruled them with a rod of iron. "He disposed as absolutely of the lives and fortunes of his conquered subjects as any Eastern monarch. He forbid them on pain of death both fire and candles in their houses after eight o'clock, Whether he did this to prevent them from meeting by night to discuss their wrongs, or only to try, by this odd and whimsical prohibition, how far it was possible for one man to extend his power over his fellow-creatures, it is impossible to tell."

But this we know, that the centralized consolidated power of the government was too strong, too high, and too far off to be reached by the people, and they were all crushed together beneath an unrelenting despotism.

But for all this, Saxonism in England, though cast down, was not destroyed. The love of independence, of local self-government, was so much a part of the Anglo-Saxon mind, that even the weight of centralized Normanism could never crush it out.

And, to this day, this Saxon characteristic is seen in England, not only in the number, but also in the diversity of local institutions. It has been truly said that no country on earth presents so great a variety of customs and local usages as England. “Habits, manners—the tenure of land, rules of inheritance, displays of free variety in local institutions, are there, to this day, strongly contrasted with the servile uniformity which Norman tyranny everywhere seeks to establish. Usages and customs which appertain to the North of England are totally unknown in the South. The men of Kent, or of Cornwall, or of Wales, bear slight resemblance to each other.”

The cities and towns of England thus have a variety of municipal power and privilege, resting on authority of “immemorial usage,” which the Crown cannot and dare not meddle with.

Voltaire says : “The English are the only people upon earth who have been able to prescribe limits to the power of their kings by resisting them.”

The English history of the *Habeas Corpus* fully justifies this remark of the French historian.

As long ago as 1215 the British Barons assembled in arms at Runnymede, on the banks of the Thames, and compelled their tyrant, King John, to grant the great charter of the liberties of England, the forty-fifth section of which declared that “no freeman shall be taken, imprisoned, or in any way injured, unless by the legal judgment of his peers, and by the laws of the land.”

The same Magna Charta declares that “ by the law, both the king and all his subjects shall be ruled.”

The last chapter of this immortal charter provides that if the king, or any one acting in his name, shall do anything by which the laws shall be disregarded, “ it shall be held of no force or effect.”

During the six centuries and a half that have elapsed since that day, no English king has dared to violate the *habeas corpus* then wrung from the throne by the Saxon love of liberty.

In all the revolutions through which the English monarchy has passed—amidst all the convulsions of its dynastic changes, its civil conflicts and foreign wars, the people of England have never been seduced nor driven from the preservation of that time-honored monument of their liberties.

Although the right of *habeas corpus* was declared three hundred years before the discovery of America, it has found its way into almost every authoritative declaration of human rights that has been drafted in the English language since.

Made in 1215, it was confirmed in 1297 by King Edward the First. It was guaranteed by the Statute of Treasons in 1350, in the reign of Edward the Third.

It was reaffirmed in 1627 by the Petition of Rights in the third year of Charles the First, and was defined and reaffirmed by the great *Habeas Corpus Act* of 1672, in the thirty-first year of Charles the Second; and again reasserted in the Bill of Rights in 1689, when William and Mary were called to the British throne, made vacant by the forced abdication of James the Second, who lost his crown by attempting to suspend the *habeas corpus*, and to subvert the liberties of the people.

From that time to the present no occupant of the

British throne has dared to suspend this great right—this immortal monument of Saxon liberty.

There are also in England, at the present day, many other monuments of the old Saxon love of liberty which the throne must not meddle with.

The local independence, the municipal rights of the counties and cities, are beyond the reach of the crown, and the crown dare not interfere with them.

This fact is happily illustrated in a ceremony which takes place in London every time a new monarch succeeds to the throne. The royal procession approaches the city to pass through the old gate of Temple Bar. The gate is locked. A member of the royal party raps for entrance. The mayor of the city, who is stationed upon the inside, inquires “Who is there?” The reply is, “His Majesty the King wishes to pass this gate.” The mayor then steps forth, and presents the great key of the gate, which signifies that it is by the permission of the people of London that even the king is allowed to pass.

I was in England just after the legislature of the State of New York struck down the municipal rights of the city by taking from it the appointment and control of its own police ; and I witnessed the unbounded astonishment of the people of Great Britain that the people of the city of New York submitted so readily to this kind of Norman despotism.

It was often said in my hearing, that if the Queen of England were to attempt such an interference with the municipal rights of the cities, it would cost her her throne.

We have no doubt it would. King James the Second was forced to abdicate for a scarcely less trespass upon the domain of local popular rights.

There are no people on earth more jealous of their personal liberty than the English.

They have hanged one another, and cut one another to pieces often enough, but it must be done according to law, or in defense of some right, traditional or otherwise.

They will endure heavy burdens, submit to any amount of taxation, but they will be locally independent and free.

The poorest beggar in England is as proud of the rights guaranteed to him in Magna Charta as any peer of the realm, and he will fight for them as quickly.

And well may they be jealous of their rights; for they have purchased them at a very high price, and waded through seas of blood to drown the idols of arbitrary power set up by their Norman kings.

The government of England has been as tempestuous as the sea that surrounds it ; but the struggles of its people have ever been for the blessings of local independence, and against the despotic tendency of centralized power.

This was the noble spirit which our ancestors brought with them to this continent.

Our forefathers were true Saxons. It was a natural love of independence that led them to brave the terrors of the ocean, and to face the savage wildness of this wilderness realm.

And here we may pause for a moment to reflect upon what may now appear to us like an interposition of Divine Providence, that all the earlier plans of colonizing this continent were such signal failures.

Had they not been failures, this continent would have been settled by a very different class of men from our

forefathers, and principles of government altogether different from theirs would have been established here.

Indeed, had not all the earlier projects for colonization failed, we of the present day, or the like of us, would not be here.

It is fearful to think of what we might have been, had the continent been settled by the Europe of the *sixteenth* instead of the *seventeenth* century.

The only pride we can take in reflecting upon the meditated colonizations of the sixteenth century, is to find connected with them such names as Sir Walter Raleigh, Sir Humphrey Gilbert, and Sir Philip Sidney.

It is a remarkable fact that all that has survived of the undertakings of these great men to colonize America is the word "Virginia."

And the fact is worth alluding to, that when, in 1590, Spenser gave to the world the first part of "THE FAERIE QUEEN," he dedicated his book to "The most high, mighty, and magnificent Empresse, renowned for pietie, virtue, and all gracious government, Elizabeth, by the grace of God Queen of England, France, and Ireland, and Virginia."

Had the plans of colonization in the age of Elizabeth succeeded, "they would have resulted in the establishment on this continent of vast feudal principalities, to be continued under rulers who would have been no less than viceroys, or to be resumed under the immediate sovereignty of the throne."

Such an occupation of this continent could never have led to the establishment of the popular and free institutions founded by our fathers.

At the period of the successful colonization, the progress of constitutional government had developed new sentiments of allegiance, and new powers of resistance.

The reign of the Tudors in England had ended ; and although the royal claims of the Stuarts might have been as high as the Tudors, yet, with the passing away of the latter, there was a revival among the people of the ancient Saxon principle of local government—of county and shire independence.

And so that *Saxonism*—or the principle of local self-government—after battling with the *Norman centralism* that clung about the British throne for more than a thousand years, at last got itself fairly transplanted to these Western shores.

Now a new era for man begins. Now freedom gets wings and space—like the caged eagle, which, after long beating itself against the bars of its own prison, is let out at length, to bathe its eye in the sunbeam, and pillow its breast upon the storm.

Not that any new *principles* of government were discovered—but ideas of human liberty, which were, indeed, older than the Grecian republics, here found a place for expansion, not only from their own inherent force, but from the absence of coercive restraint.

Fortunately for the young colonies, the British throne was three thousand miles away.

Fortunately for the progress of Saxon independence on these shores, three thousand miles of dangerous waters intervened between them and the centralized power of a crown.

We were for a long time let alone, because it was not very convenient to meddle with us.

Mr. Burke, in his great speech on conciliation with America, said : “The colonies in general owe little or nothing to any care of ours. They are not squeezed into this happy form by the constraint of a watchful and suspicious government, but through a wise and

salutary neglect a generous nature has been suffered to take her own way to perfection."

But it was to the difficulty and the expense of reaching us that we chiefly owe this "wise and salutary neglect."

The moment that the growing wealth and power of these colonies tempted the cupidity of the British throne, there was nothing more to be seen of that "wise and salutary neglect."

Taxation, without representation, came quick enough as soon as there was anything here to tax.

But in the meantime *Saxonism*, or *localism*, had made such headway, that when *Normanism* or *centralism* did come, it was too late. The horse would not carry its rider.

That Saxon love of freedom, which had dissolved the union between the head and shoulders of more than one British king, had got under such headway here, that it defiantly waded through eight years of blood and battle to dissolve the union between the British throne and these colonies.

But I anticipate. There is a mid-region, between the *settlement* and the *independence* of these colonies, which must be looked into before we can judge rightly of the nature of those institutions which were founded by our fathers of the constitutional period of our history.

The first thing that strikes us, as we look into this mid-region between colonization and independence, is the perfect original independence of all the colonies, of each other.

There was, in the beginning, not only no union, but there was the greatest diversity between them.

They had not even all the same form of government.

1st. "There was what may be called the *Charter Government*; in which the legislative power was vested in a governor, council, and assembly.

Such were the governments of Connecticut, Rhode Island, the Plymouth Colony, and originally of Massachusetts.

2d. There was the *Proprietary Government*, in which the proprietor of the Province was governor, the assembly being chosen by the people.

Such were the governments of Pennsylvania and Maryland, and at first of New Jersey and the Carolinas.

3d. There was also what may be termed the *Royal Government*, in which the governor and council were appointed by the crown, the assembly being elected by the people.

Such were the governments of New Hampshire, New York, Virginia, and Georgia, and of New Jersey after 1702, and of the Carolinas after 1728.

4th. There was the *Mixed Government*, in which the governor only was appointed by the king, while the assembly and the council were elected by the people.

This was the form adopted permanently by the "Massachusetts Colony."

This variety in the constitutional forms of the colonial governments points out their *territorial separation* and their *constitutional independence* of each other.

Their constitutional independence of each other was as complete as that which exists between France and Spain at the present time. Indeed, these two nations have far more intercommunication than the colonies had with each other previous to the revolutionary period.

At first there were but two territorial divisions—known by the names *Virginia* and *New England*.

At last these became divided into thirteen distinct political communities, which, as we have seen, were entirely independent of each other.

There was neither a community of interest nor of feeling between them.

They were strangers to each other.

There was no trade between them, which must probably be accounted for in part by the policy of Great Britain, which placed restrictions on the commerce and manufactures of the colonies.

It must also have accorded with the feelings of the colonists.

“Old England” they still regarded with affection. “New England was nothing to Virginia, and Virginia was nothing to New England.”

“Old England” they fondly spoke of as “*home*”—as the “*mother-country*”; but they never alluded to the colonies as *brothers* and *sisters*.

We search almost in vain for any traces of any kind of intercourse between them, at the early date of which we are now speaking.

“In 1756, Washington traveled eastward as far as Boston, and the year following he visited Philadelphia—but the object of both these visits was connected with the old French war—the first, for a personal interview with the commander-in-chief, Governor Shirley, and the second to attend a convention of governors and officers summoned by Lord Loudoun.”

These, I believe, are the only times that Washington visited the Northern or Middle provinces, until the beginning of the Revolution.

In 1773, Mr. Quincy, of Boston, paid a visit to the

Middle and Southern provinces, and, writing home from Charleston, he speaks of "*this distant shore.*"

Just before the breaking out of the Revolution, two Philadelphia patriots—John Dickinson and Joseph Ross—visited Boston.

These are the only instances I remember of any communication between the colonists until the beginning of the Revolution.

When the first general Congress assembled in 1774, the members all met as "strangers."

I have dwelt somewhat upon this point, because we shall find, in the sequel, that it had an important bearing upon the character of the government which was at last established by a union of all these colonies.

We shall see that the principles which at last became fixed in the glorious constitution of our country were simply expansions of the ideas of *local independence* which the Saxons brought into England in the fifth century, and which came over here with our forefathers, and inspired them with the mighty will that carried them through the bloody period of the Revolution.

We shall see that every one of the colonies was as jealous of losing this principle as of losing its life.

Our ancestors countenanced many whimsical tyrannies that strike us now with grotesque amazement; but they were always clear on this one point,—they would have their own way. They would make their own local laws, and have supreme control over all their domestic institutions; and it was never a safe business for any one dwelling outside of their local jurisdiction to meddle with them.

There was no authority recognized, except that of Heaven, in their local government, but the voice of their own people.

We have an excellent illustration of this in the laws which were made in what was called "the dominion of New Haven," at its first settlement—of which the following are examples :

"The governor and magistrates, convened in General Assembly, are the Supreme Power, under God, of this independent dominion."

"The Governor is amenable to the voice of the people."

"The Governor shall have a single vote in determining any question, except a casting vote, when the Assembly shall be equally divided. The assembly of the people shall not be dismissed by the Governor, but shall dismiss itself."

"Whosoever says there is a power over and above this dominion, shall be punished with death and loss of property."

But, although these colonists were clear enough on the subject of local sovereignty, they knew how to be despots in their own little way.

For instance, what do our young gentlemen think of the following law :

"No man shall court a maid in person, or by letter, without first obtaining consent of her parents : five pounds penalty for the first offence, ten pounds for the second ; and for the third, imprisonment during the pleasure of the Court."

And what do married people think of this law ?  
"Married people shall live together, or be imprisoned."

But if the New England colonists knew how to be cruel to the members of their own community, they were *clear enough and invincible enough on this principle* of being sole masters of their own domestic institutions. They would punish any man with death who should dare even to intimate that they were not.

And, although the other colonies were not possessed of the same grotesque and intolerant *bigotry* as those of New England, they were not the less jealous of the principle of local independence.

Botta, the distinguished Italian, who wrote the first impartial history of our War of Independence, says : "As to the provinces of the South, the land there being more fertile, and the colonists consequently enjoying greater affluence, they could pretend to a more ample liberty, and discover less animosity for opinions which differed from their own. Nor should it be imagined that the happy fate they enjoyed, had enervated their minds or impaired their courage. Living continually on their own plantations, far from the luxury and seduction of cities, frugal and moderate in all their desires, it is certain, on the contrary, that the great abundance of things necessary to life rendered their bodies more vigorous, and their minds more impatient of all subjection. In these provinces, also, the slavery of the blacks, which was in use, seemed—however strange the assertion—to have increased the love of liberty among the white population. This influence they considered not merely as a right, but as a franchise and privilege. They considered the pretensions of the British Government as tending to reduce them to a state little different from that of their own negro slaves."

Another thing that led to the greater love of the principle of local independence among most of the colonies, was a perpetual fresh recurrence to the causes which had led to the planting of their destinies upon these shores.

If it was a love of liberty, and an abhorrence of the privations they suffered on account of it, that brought them to these shores, how should the ardor of exasper-

ated minds have been appeased in these vast solitudes, where the amusements of Europe were unknown—where assiduity in manual toils must have hardened their bodies, and increased the asperity of their characters.

If, in England, they had shown themselves adverse to the dictation of centralized power, how should their opinions have been changed here, where scarcely a vestige was seen of the royal authority and splendor? Many of them had encountered exile, at the epoch when the war waged most fiercely in their native country between the king and the people—at the epoch when the armed subjects contended for the right of resisting the will of the prince when he usurps their liberties.

The colonists had suffered for these principles in the *old* country, and how should they forget them in the *new*?

They were not only, for the most part, Protestants, but they were protestants against protestantism.

They were dissenters to all kinds of authority, ecclesiastical or civil, which was not the election of their own free and independent choice.

This spirit grew up with their growth, and strengthened with their strength on this continent, from the time of their landing up to the very period of the Constitution. The circumstances that surrounded them were most favorable to the growth of this feeling of perfect independence, and of impatience at every thing that partook of the character of centralized coercive restraint.

From the vast extent of the territory occupied, and the abundance of vacant lands, every colonist was, or might have become, at the same time, a proprietor, a farmer, and a laborer.

Finding all his enjoyments in rural life, he saw spring up, grow, prosper, and arrive at maturity, under his

own eyes, and often by his own hands, all things necessary for the life of man.

He was the monarch of all he surveyed. He felt himself free from all subjection, from all dependence. And individual liberty is a most powerful incentive to civil independence.

He was a true lord. He might hunt, fowl, and fish whenever he pleased. There were no poacher laws to restrain his will. His parks, and pleasure grounds, and reservoirs were boundless forests, vast and numerous lakes and rivers, and the sea unrestricted and inexhaustible in fish of every species. How could this man feel himself otherwise than a lord of the soil, as free as the winds and the eagles that flew above him? How could he feel otherwise than *free*? *Independence* was as much a part of the emotions and passions of his bosom, as of his unrestricted footsteps among the *unfenced* hills and vallies of the boundless continent around him.

The eagle that soared from peak to peak over all this wilderness realm, was not more free.

And it was with something more than a metaphor, that our forefathers adopted the *eagle* as the fitting emblem of *American Liberty*.

They regarded this proud native of these forests with as sacred, and almost as superstitious a reverence, as William Tell, the immortal hero of Switzerland, who, in Sheridan Knowles' inimitable drama of his name, is made to say:—

“Scaling yonder peak,  
I saw an eagle wheeling near its brow ;  
O'er the abyss, his broad-expanded wings  
Lay calm and motionless upon the air,  
As if he floated there without their aid,  
By the sole act of his unlorded will,  
That buoy'd him proudly up. Instinctively  
I bent my bow ; yet kept he rounding still  
His airy circle, as in the delight  
Of measuring the ample range beneath,

And round about—absorbed, he heeded not  
 The death that threaten'd him. I could not shoot.  
 'Twas liberty. I turned my bow aside,  
 And let him soar away.

\* \* \* \* \*

The land was free! O! with what pride I used  
 To walk these hills, and look up to my God,  
 And bless him that it was so. It was free—  
 From end to end, from cliff to lake, 'twas free!  
 Free as our torrents are that leap our rocks,  
 And plough our vallies, without asking leave:  
 Or, as our peaks, that rear their caps of snow,  
 In very presence of the regal sun!  
 In my boat at night, when midway o'er the lake,  
 The stars went out, and down the mountain gore,  
 The wind came roaring! I have sat and eyed  
 The thunder breaking from his cloud, and smiled  
 To see him shake his lightnings o'er my head,  
 And think I had no master, save his own!  
 I have thought of other lands, whose storms  
 Are summer flaws to those of mine, and just  
 Have wished me there—the thought that mine was free  
 Has check'd that wish, and I have raised my head,  
 And cried in thrall-dom to that furious wind,  
 Blow on! This is the land of liberty!"

Such were the freedom-inspiring surroundings of our forefathers, who laid the foundations of civil liberty, and of local independence on this continent. The cradle of liberty was here rocked by the untrammeled winds of heaven.

Man's soul was made free by ten thousand proclamations issued by the voice of Nature and Providence, which spoke by the authority of charters older than the records of human governments, and diviner than the statutes of legislative enactments.

Every man's bosom was a kingdom! Every man's soul was a king! Vast forests, hills, vallies, rivers, lakes, fields, were his subjects.

He commanded them, and they obeyed. Each in its turn paid tribute to his wants, and in due time poured wealth and plenty into his lap.

Here he grew in greatness and power, becoming progressively more free and independent, as he subjugated the continent to his will, until at length the institutions of government grew under his hand into a temple of liberty that commanded the wonder and admiration of the world.

*That was the Union!*

## LECTURE II.

### HISTORY OF THE UNION.

THE Union was not made—it grew. It came not out of unity, but disunity. It was formed by thirteen distinct and independent colonies, which, with extreme caution, even with reluctant steps, approached each other whenever the subject of forming a General Government was started.

They had known the independence of states, and the liberties of the people, to fall so often under the central power of general governments, that they heard with dread and distrust the very name.

The first effort at colonial combination on this continent was made among the New England colonies as early as 1643—144 years before a union of all the colonies was effected.

This early New England confederacy was formed as much from distrust of the Dutch settlement upon the Hudson, as it was for mutual protection against the hostile Indians upon their frontiers

This confederacy, which was called “The United Colonies of New England,” purported to be “a perpetual league of friendship and amity.”

It lasted thirty years.

It contained provisions for enlargement by receiving other English colonies to its communion. But it was never enlarged.

Limited as it was in its members, and cautiously restricted as it was in its powers, five years were con-

sumed in perfecting it. And when, at last, the organization was completed, it was purely federal in its nature—each colony retaining entire jurisdiction within its territorial limits.

No such thing as a general government was permitted to exercise the least control over the separate colonial sovereignties.

No other colony was ever added to this confederacy, and as the dangers which at first suggested its formation passed away, it gradually faded out itself with the abrogation of the New England charter, in the reign of James II.

The old Saxon principle of local independence was such a predominating element within the narrow limits of these kindred Puritan colonies, that a “perpetual” confederacy was dissolved in a little more than thirty years.

To the doors of Massachusetts was laid the chief blame of the breaking up of this first little American confederacy, which, according to its articles of confederation, was designed to be perpetual.

At the formation of the confederacy, Rhode Island was kept out by the influence of Massachusetts, simply because the Rhode Island colonies were dissenters from the Puritan religion.

And it was almost entirely through the vigilant intolerance of Massachusetts, that sectarian animosity made burning lines of division between the colonists on this continent, and for a long time kept back the natural progress of the elements of affinity which were ultimately to form the Union.

And it is a remarkable fact, that we are indebted to the colony of Maryland for the first legislative act of religious toleration on this continent, which it passed

while the Massachusetts colonists were drowning the Baptists, as if to commit a *pun* upon their doctrine of immersion, and boring holes through Quaker's tongues with red-hot irons, and whipping dissenting women naked from Boston to Dedham.

But, while at this period it seemed impossible that there should ever be any general union between these colonies, possessed of so many divergent passions and interests—there was, still progressing at the same time, a strong tendency to military colonial combination, which, as we shall see, was planting the seeds of the future Union.

On repeated occasions, the authorities of the various colonies—that is, the governors and commissioners—were brought together for conference respecting hostilities, offensive and defensive.

It was at such a military conference, held at New York in 1790, that the word “Congress” was for the first time used in America.

Not only were the members of the different colonies gradually brought together by these occasional conferences, but they at last came to know still more of each other by joint military service.

“ This kind of association may be traced as an influence of union, more or less operative on different occasions, from the times of what were called ‘ King William’s war,’ and ‘ Queen Anne’s war,’ at the close of the seventeenth century, down to the peace of Paris, in 1763, at the close of the old French war.”

As this old French war brought a proposition from England for a union of all the colonies, it is important that we pause here for a moment to consider the causes that led to that war. A year after the peace of Aix-la-Chapelle in 1749, a grant was made by the Government of Great Britain of six hundred thousand acres of land

to some merchants, whose association was called the "Ohio Company."

The Governor of Canada, which was at that time a province of France, apprehensive that that establishment would have a tendency to interrupt the commerce of the Canadians with the Indians, and of interrupting direct communication between Canada and Louisiana, then also a French colony, wrote to the colonial governors of New York and Pennsylvania, that the English merchants had violated the French treaty in order to trade with the Indians, and that he would cause them to be seized wherever he could find them.

Soon after this, a detachment of French and Indians made prisoners of all the English traders on the Ohio, at the commencement of the year 1751.

The inhabitants of Virginia instantly dispatched Major George Washington to the French fort on the Ohio, commanded by Gen. de Saint Pierre, to demand an explanation of these hostilities.

Of course there was no explanation to be given, except that France was determined not to allow the English merchants to be domiciled on the banks of the Ohio.

England was equally decided, and what was called the "Old French war" followed.

The colonies all contributed their respective sums of money to carry on the war. Their troops served together, in the several early attempts on Canada, in the expedition against Cape Breton, and in the capture of Louisburg.

This associated service in the old French war was a first step towards preparing the colonies for the war of the Revolution, and for a final union with each other.

England recommended that the colonies should form a *general league*, for purposes of a more effectual

defense against the Indians who were friendly to the French interests.

And all the colonies chose deputies, who met at Albany for the purpose of devising some plan whereby such an object might be effected.

On the Fourth of July, 1754, this body of colonial deputies agreed (Connecticut dissenting) upon the conditions of such a *league* or *union*, and resolved that a petition should be presented to parliament, to obtain an act for the establishment of a general government in America.

The conditions of this colonial union were, that each colony should preserve its internal constitution and sovereignty—that the general government should be administered by a president-general appointed by the crown, and by a grand council, elected by the representatives of the people of the colonies.

But this proposition from the colonies did not suit the mind of England.

For the British court at once perceived how much such a union would impair the authority of the English government, and place the colonies on the road to independence.

“ By this union the colonies would have obtained a local power which would have exercised all the rights of sovereignty, however dependent it might appear to be on the mother-country.”

Instead, therefore, of the plan proposed by the colonists, the British ministers drew up another, which they addressed to the governors of the colonies, to be offered by them to the colonial assemblies.

This ministerial plan for a colonial union possessed many features which were extremely repugnant to the colonies, every one of which was very jealous of losing its colonial sovereignty and independence.

The whole scheme of a union, therefore, fell through, and no further attempt was made to bring the colonies together until ten years afterwards, in 1765, when the arbitrary measure of the *Stamp Act* threw the whole country into alarm for their liberties.

That principle of Saxon independence which formed the basis of the colonial character, revolted at the very idea of submitting to a tax of any description, or for any purpose, which was not laid on by their own free and independent choice.

The first section of the famous, or, as our ancestors held it to be, *infamous* Stamp Act, read as follows : “ For every kind of skin of vellum or parchment, or sheet or piece of paper, on which shall be engrossed, written, or printed, any declaration, plea, rejoinder, demurrer, or other pleading, or any copy thereof, in any court of law within the British colonies and plantations in America, a stamp duty of three cents.”

The whole act contained fifty-five sections, which placed a stamp duty upon everything for which paper or parchment was used.

There were many sagacious statesmen in the British Parliament who foresaw what a blaze this act would kindle on the North American continent, and who did their utmost in Parliament to defeat it.

Among these, the gallant and far-seeing Col. Barre, in reply to a remark of Lord George Granville that “ the colonies were planted by the care of the British government,” replied “ No ! your oppression planted them in America. They fled from your tyranny into a then uncultivated land, where they were exposed to almost all the hardships to which human nature is liable. And yet, actuated by principles of true English liberty, they met all these hardships with pleasure, compared with

those they suffered in their own country, from the hands of those that should have been their friends."

This whole speech was one of the most terrible, from its scathing denunciations of the government, that was ever delivered in the British Parliament, and when it was ended, the house sat petrified with surprise, without a single member uttering a word in reply.

But the pride of the ministers would not permit them to retreat, "and Parliament could not hear with patience its authority to tax the colonies called in question."

So the bill passed on the 7th of February, 1765, by a vote of *two hundred and fifty*, to *fifty nays*.

The very night the act passed, Dr. Franklin, who was then in London, wrote to Charles Thompson, of Pennsylvania, who was afterwards Secretary of Congress, "*The sun of liberty is set; the Americans must light the lamps of industry and economy.*" To which Mr. Thompson answered: "*Be sure we shall light torches of quite another sort.*"

And so they did.

A torch was lighted that filled the very heavens over this continent with the red light of rage, that flashed in the face of the British ministers three thousand miles over the water!

Again Virginia was the first to send out the shout of resistance, as it was at the time of the French war.

On the 29th of May, 1765, the House of Burgesses of that colony, upon the motion of Patrick Henry, passed a series of resolutions, of which the following is the closing paragraph:

"That His Majesty's liege people, the inhabitants of this colony, are not bound to yield obedience to any law or ordinance whatsoever, designed to impose any tax whatsoever upon them, other than the laws and ordi-

nances of this general assembly. That any person who shall, by speaking or writing, maintain that any person or persons, other than the general assembly of this colony, have any power to impose or lay any taxation whatsoever upon this people, shall be deemed an enemy to His Majesty's colony."

You will notice that there is here no hint or intimation of declaring independence of Great Britain. They called themselves "His Majesty's liege people."

There was not, up to this time, a dream among any of the colonies of declaring colonial independence of the mother-country, and setting up a new government for themselves.

They were simply contending for the old Saxon principle of the right of local self-government, under the crown, and for nothing more.

But a series of riots, and the most destructive demonstrations followed the news of the passage of the obnoxious act, especially in Massachusetts.

The anti-stamp resolutions in the colony of Virginia, you will remember, were passed on the 29th of May, 1765.

On the morning of the 14th of August, of the same year, two effigies were discovered hanging on a branch of the old elm tree on Boston Common, one of which was labeled a stamp officer, the other a jack-boot, with two horns projecting from its head. This spectacle attracted an immense crowd, not only from the city, but from the whole country.

About dusk the images were cut down, placed on a bier, and carried in great mock solemnity through the streets. The people followed, stamping and shouting, from all quarters, "Liberty and property forever—no stamp!" As this crowd of noisy sovereigns came in front of a house owned by a man of the name of Oliver,

which it was supposed was to be used as a stamp office, it halted, and paid its respects to the said house, by demolishing it to the level of the ground.

Next they went to the dwelling of Oliver, and there, in front of his door, beheaded his effigy, broke all his windows, and then marched on with cries and shouts that almost split the heavens down over their heads. They, however, soon returned, broke open his doors—Oliver having in the meantime fled to some other house for safety—and, entering the lower part smashed all the furniture to pieces.

The next day Oliver wrote to England, requesting to be excused from the office of stamp distributor.

These violent scenes not only took place in Boston, but every part of the colony was one scene of riot and violence.

The fire that was kindled swept through all the colonies. At Providence, Rhode Island, a gazette extraordinary was published on the 24th of August, with "*vox Populi. vox Dei,*" in large letters for the frontispiece, and at the bottom "*Where the spirit of the Lord is, there is Liberty.—St. Paul.*"

Effigies of stamp officers were dragged through the streets with halters tied to their necks, then hung to gibbets, and afterwards burned.

Everywhere the frantic populace rushed headlong through the streets into the most irrational excesses, while men of order and character, if they testified their disapprobation in more moderate ways, were not less determined in their resolution to resist, to the bitter end, the odious act of Parliament.

Thus the spirit of resistance and liberty which was kindled by Virginia, and fanned by Massachusetts, ran over the land, spreading such terror in the minds of the officers of the crown, that on the first day of Novem-

ber, the day fixed by law for the emission of stamped paper, not a single sheet of it could be found in all the colonies, from Massachusetts to the Carolinas. It had either been committed to the flames during the popular commotions, or been sent back to England by the frightened officers to whom it was addressed.

It may perhaps seem almost strange to you that our fathers should make such an ado about a two-pence stamp upon a bit of paper. But, it was not the amount to be paid—it was the *principle* against which our fathers struck.

Their battle was still for that ancient Saxon principle of local independence—of entire sovereignty over every one of their own domestic institutions.

These anti-stamp riots, or wars—for they were almost wars—have two important bearings upon our subject

1st.—They illustrate the intense spirit of independence which animated the breasts of all the patriotic founders of the Republic.

2d.—They caused a long stride on the part of all the colonies towards that combination which ultimately resulted in the Union.

While these wild and disorderly demonstrations were progressing on every hand, the colonists of New York called a general meeting of the people in the fields adjacent to the city, for the purpose of appointing a committee of persons of known patriotism, to communicate with the friends of liberty in other provinces, in order to enable all the colonists to move together as one body to resist a common enemy.

Articles of a general plan of co-operation were drawn up and circulated from hand to hand by an organization called “The Sons of Liberty,” among all the colonies.

Although this organization never entertained the thought of declaring colonial independence of Great

Britain, and much less of effecting any political union between the colonies, yet the very fact of combining for mutual defense and safety was nevertheless a great step towards the formation of the Union that was to be.

The preamble of this colonial anti-stamp league began by declaring that they would continue to defend and support the crown in every just and lawful act, and closed with this sentence :

“ We will defend the liberty of the press from all illegal violation, and from every impediment which may result from the stamp act—the press being the only means, under Divine Providence, of preserving our lives, liberty, and property. We will also defend and protect the judges, advocates, attorneys, and notaries, against all penalties, fines or vexations they may incur in not conforming to the act aforesaid.”

Beside this popular league, the merchants of the various cities, throughout the colonies, entered into another, by which they all agreed to write to England, ordering no more goods to be sent to them until the stamp act was repealed.

They also prohibited any lawyer from instituting an action for moneys due an inhabitant of England ; and no American was to make any payment for the benefit of a subject of that kingdom, until the act was repealed.

There was yet another league, called “ The Society of Arts, Manufactures and Commerce,” formed for the purpose of rendering the colonies more independent of the wares of the mother-country.

Markets were opened for the sale of articles manufactured in the colonies, to which were soon brought, in considerable abundance, cloths, linens, stuffs of wool and a great variety of articles of general utility.

That articles of woollen stuff might be more abundant, it was resolved to abstain entirely from the flesh

of lambs, and also from buying meat of any butchers who should kill or offer for sale these animals. Rich men would wear old clothes, sooner than buy new cloth of English manufacture.

The colonies of Virginia and South Carolina agreed to suspend all exportation of tobacco to any part of Great Britain, which was a great blow to British commerce, as England supplied foreign markets with immense quantities of these tobaccos.

While these things were progressing on every hand, Massachusetts conceived the plan of a general Congress of all the colonies, for the purpose of affecting a general and public confederacy against the laws of which they complained.

This movement was received by all the colonies ; and on Monday, the 7th October, 1765, the deputies from each assembled in general Congress in the city of New-York.

After a long preamble, full of extraordinary protestations of affection and loyalty towards the person of the king and towards the English Government, this Congress adopted a series of fourteen articles, setting forth their determination to run every hazard in defense of the sacred principle of local independence and self-government. And then it adjourned, with a recommendation that they should meet again the next May.

When the news of these events in America reached England, two parties were formed there, which contended with great bitterness with each other in Parliament. The ministerial party were for punishing the colonists with the utmost rigor of coercive force.

But there was another party, led by Mr. Burke and the venerable William Pitt, which opposed the ministerial schemes of force with great power.

Mr. Pitt, who was already stricken with years, fore-

saw the fatal consequences of attempting to coerce the colonies where the determination to resist was so general and determined, warned the ministers that, "In such a cause, your success would be deplorable, and victory hazardous. America, if she fell, would fall like a strong man. She would embrace the pillars of the State, and pull down the constitution along with her. Is this your boasted peace?—not to sheath the sword in its scabbard, but to sheath it in the bowels of your countrymen? The Americans have not acted in all things with prudence and good temper. But they have been wronged. They have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and benignity first come from the strongest side."

But the men of the genius and wisdom of Burke and Pitt struggled in vain against the madness of the British Government.

When a nation once becomes mad with the pride of power, and with a thirst for revenge upon those who affect to despise it, it is seldom that prudence and reason return in time to save it from the fatal consequences of its own folly.

The colonies were thus, against their own wills, against their own faithful love of "the home government," forced into resistance and revolution by the follies and crimes of the government itself.

While these things were progressing in the colonies, an event happened in London which disclosed the fact that the British ministers were deceived as to the character of the discontent in this country. In 1773 Doctor Franklin, who was at that time agent for several colonies at London, had found means to obtain from the office of State several letters of Governor Hutchinson and Lieutenant Governor Oliver, of Massachusetts,

which purported to acquaint the ministers with all that passed in the colonies, and in which they delivered their opinions with great freedom.

They represented that all the parties arrayed against the British Government in this country, were persons of little weight,—audacious, turbulent, and but few in number—that they were even without influence with the multitude—that the mildness and forbearance of the government had been the sole cause of all their boldness—and that, if it should take vigorous measures, all would return to their duty.

Franklin transmitted these letters to Massachusetts—they were printed and distributed copiously everywhere, and you can well imagine that the scenes which followed were little favorable to the longer peaceful abode of Hutchinson and Oliver in the Colony.

The following year, 1774, the British Parliament passed the famous Boston Port Bill, designed as a special act of revenge upon the Massachusetts Colony for its active hostilities against the laws and officers of the Crown.

The Virginia Colony promptly resented this act of tyranny, as though it had been designed against itself; and its legislature passed a resolution, recommending that a congress should meet annually to consult upon the interests of the colonies; and agreeably to this recommendation such a congress was called at Philadelphia in September of that year (1774).

This was a year of great events : events which began a new history for the world : this was the year of the celebrated *tea-party* in Boston harbor.

Parliament had put a small duty of three pence a pound on tea, and our fathers resolved that they would therefore use no more tea.

And to make sure work that no more of this taxed

tea should be used, when a large cargo of it was coming up Boston harbor, the populace boarded the ship, and threw every chest overboard, thereby converting the Atlantic ocean into a tea-pot for the use of the British ministry, if it had a mind to partake.

In New-York and Philadelphia, as no person could be found who would venture to receive the tea on consignment, all the ships, laden with the article, were returned to England.

This was the last blow. War upon the colonies was instantly resolved upon by the British ministry.

That is, the colonists were to be forced into obedience at the point of the bayonet.

The port of Boston was declared closed, by the ministry. The tramp of the soldiers of the Government was heard in its streets.

Every other colony regarded these things as a menace to themselves. The cause of *one* was the cause of *all*. There was a *union of danger*, which could be averted only by a *union of resistance*.

From this time we may date the American Union.

It was not established, you perceive, for the purpose of a unity, or similarity, of civil institutions.

The Union really had nothing to do with the local laws and institutions of the colonies.

We shall find that each colony was as independent, and as much the master of its own domestic affairs, *after* as it was *before* the Union was formed.

Indeed, it is certain that there was no intention on the part of any of the colonies to form a union for any other purpose than that of a general united defense against a powerful enemy.

Each colony elected its delegation to the Congress of 1774 in its own way. There was no regularity, no concert of action in the manner of their election.

It was simply, so far as each other was concerned, thirteen distinct independent sovereignties doing business in their own way, and joining in a general congress for mutual protection.

I know of nothing in history more remarkable than the meeting of those fifty-two colonial deputies in a room in Carpenter's Hall, Philadelphia.

"They locked the doors, enjoining by word of honor secrecy on the members; and all the while the people, from New-Hampshire to Georgia, waiting quietly—willingly, resolutely prepared to do, not the *bidding* of that congress, but to *accept its conclusions* as the voice of thirteen nations!"

There was Union!

Thirteen independent colonies lifting their hands to Almighty God with one prayer for strength to combat a common foe! That was union!

Thirteen colonies grasping the sword as with one hand! That was union!

Thirteen colonies, by their deputies, locked up in one room, resolving *what to do*, while all the people listened with one breath to know what they *had done*! That was union!

These fifty-two men, locked up in that dingy room in Carpenter's Hall, had no idea of what they were doing themselves. They had no idea they were forming a union of their colonies which would at length become the proudest nation on earth. But that was just what they were doing!

It is true, that Congress contemplated nothing more than "association" (that was the term they applied to it) in a policy of non-importation and non-exportation, and the employment of whatever defensive means might be needed to secure their object.

"When the Congress adjourned, it was a *contingent*

adjournment, leaving it to be determined by the course of events whether the colonies would again be found acting in concert.

The plan of a confederation, proposed by Franklin the next year (1775), looked to no duration beyond the continuance of the obnoxious acts of Parliament.

Even after the war began, and the continental army was in the field, perpetuity of union formed no part of the plan of operations.

It was not until the wearied patience of the people was worn out, and the sense of freedom driven to the last resort, that the coalition of the colonies began to assume the aspect of permanence.

Then, and not till then, it became apparent what had long been the tendency to a final union between these distinct communities.

Together they had sought redress for their grievances—together they had declared their rights—together they had petitioned, appealed, and remonstrated.

And when they had encountered the same repulse, and the same disappointment, they "*associated*" under solemn pledges for a combined resistance.

At length, when all had failed, and they saw that the hour had come for the last appeal, they bowed down together in "public humiliation, fasting, and prayer," and with hearts thus fortified, they stood up together to face the common danger.

"It was one war to all."—And that was *Union*.

In the meanwhile, the British ministry looked on the whole thing as a farce, which would be ended in sixty days.

One of them said : "Can we, in fact, make a serious matter of the resistance of the Americans ? Cowards by nature, incapable of any military discipline, their bodies are feeble, and their inclinations are dastardly."

The British General Grant was so infatuated with this opinion, that he declared openly that he would undertake, "with five regiments of infantry, to traverse the whole country, and drive the inhabitants from one end of the continent to the other."

The Congress of colonial deputies which assembled in 1775 was clothed with ample discretionary powers to "*concert, agree upon, and prosecute*" such measures as should best secure justice from the home government and liberty to the people.

Under these instructions, Congress proceeded to organize an army for the general defense, to contract debts, and to issue paper currency upon the faith of the associated colonies.

This was rebellion in earnest. And it was the first act that implied permanent union.

The next year was the great year of the Declaration of Independence, in which we find our ancestors still tenaciously holding on to their old and cherished Saxon principle of the eternal right of self-government.

The second paragraph of that immortal declaration proclaims that government derives its "*just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it.*"

It was in defense of this principle that our fathers periled their fortunes, their sacred honor, and their lives. The war of independence was fought on this basis. Independence was achieved on this basis. The Union was formed on this basis. This is the *American principle*.

To deny it—to forsake it—would be to turn our faces away from the American continent, and go back to the darkest period of the Norman despotism.

To deny it, would be to brand our fathers with the infamous name of "rebel," or to proclaim in the face of the world that we are "bastards, and not sons"

To deny it, would be to say that they died like fools in their own blood, and left us inheritors of nothing but a fraud and a lie !

We shall now see how jealous our forefathers were of losing the sacred principle for which they were fighting.

On the 11th of June, 1776, less than one month before Independence was proclaimed, the Congress of the colonies began to digest and prepare articles for a permanent confederation or union. And although these articles left the colonies the sovereign masters of their own local governments and domestic institutions, it was not until the 1st of March, 1781, (four years after they were drawn,) that all the colonies could be induced to sign them.

While in the midst of a bloody strife with the powerful foe—while suffering under the weight of a common calamity—it was only by slow and reluctant degrees that our fathers could be brought to consent to the establishment of any kind of a permanent general government, from the unconquerable dread that they would, somehow, lose their local independence and sovereignty.

By these articles of confederation, the colonies had no connection with each other, except through the medium of their respective local legislatures.

Under the confederation, therefore, which dated from the time of the Declaration of Independence, the complete sovereignty of the colonies was preserved.

As this confederation, which was concluded in 1781, forms the actual date of the Union, it is important for

us to understand the objects contemplated in its formation.

Article I. declares : "The style of this confederacy shall be 'The United States of America.' "

" Article II. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the U. S. in Congress assembled.

" Article III. The said States hereby severally enter into firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever."

This shows you that the Union, when it was formed, contemplated only a combination, or association, for the "common defense." It was designed to be impregnably based upon the great Saxon principle of local independence and State sovereignty.

On no other basis could the Union ever have existed.

And even on this basis, our forefathers hesitated, debated, and questioned for *four years*, before they all consented to the establishment of a general government of any description.

They were fighting for the old Saxon principle of local sovereignty, and would consent to no union, except for such external objects as a general defense against a common enemy.

The 13th and last article of confederation declared that "Every State shall abide by the determinations of the U. S. Congress, *on all questions which by this confederation are submitted to them.*"

You see the caution of this language—you see that the intention was to impart no power to the confederate government which could ever lawfully encroach upon the local sovereignty of the States.

I think you will confess that it has been made conclusively to appear, that from the time when our fathers landed on this continent, down to the period of the Union, they never lost sight of this principle of Saxon freedom, embraced in the idea of local self-government in opposition to the Norman principle of centralized, civil power.

You can find the date of independence, of the confederation, and of the constitution; but you cannot define the date of the Union any more than you can define the date of a tree's growth.

"It was not done in convention. Men did come together by some delegated authority, and deliberate in solemn council, and ordain a Union. Never." It was the work of time and Providence—the natural consequence of events stretching through more than a century of painful and varying colonial history.

It was not the work of any one man, nor of any body of men.

It was the work of God.

In its sublime growth we behold the hand of Deity creating the moral world.

We say in no human sense was it *made*. It *grew*. It grew as a tree grows, "planting its roots deeper and lifting its branches stronger and stronger, and higher and higher—its vital forces coursing upward and outward to its latest leaf."

The Union grew as the forest grows, the seed of which can be traced to no man's hand.

*Confederation* was not necessarily *Union* in its highest moral sense. Confederation was *necessity*--it was forced upon independent separate communities, for mutual safety and protection.

It did not necessarily imply love for each other, or family feeling ; it might have been brought about--it was brought about--by a thousand divergent self-interested, which, through so many different channels, culminated in a political combination for the specific purposes of external defense.

But this does not necessarily imply the essential properties of *union*, any more than a heap of sand implies *union*. A heap of sand is composed of innumerable particles of separate atoms, pressed closely together, but there is no union between them.

Thus there may be society without union--communities of men without union--combinations of States without union.

Bodies of men held together by restraint would not be a union, any more than States held together by coercive force would be a union.

The empire of Austria is composed of several States, of the Hungarians, the Poles, and the Stabians , but it is not a *union*, it is a *despotism*.

A union implies the freedom of choice--the act of voluntary association and of moral affinity.

Destroy this among States, and you have destroyed not only the elements of union, but you have destroyed the substance of it too, and left nothing but a cumbersome and expensive organized *disunion*--it may be an overpowering centralized Norman despotism

But the Union !--the Union was another thing !

It was a temple of liberty, reared upon the mutual wants, sympathies, and concessions of those brave and pure-minded men, whose prayers had gone up united

to the throne of God, and whose blood had sunk united into the common earth.

Side by side, in the same patriot graves, lay the dead of Massachusetts and of South Carolina! an immemorial emblem of the *Union*; and which, to this day, interprets to us what the Union was, that was established by our fathers.

It was meant to be a bond of amity, friendship, and mutual protection.

It was never intended to be used as a piece of machinery for fostering bickerings, jealousies, distrust and hate between the different members of the great family of States.

The moment it ceased to be a bond of amity, respect and mutual concessions, it ceased to be a *Union*.

The moment that the North and South began to organize political combinations against each other, the hand of an invisible fiend began to toll the knell of the Union.

That moment the *soul* departed from the Union, and left nothing but the bare walls and deserted chambers of all that temple of liberty and amity which was built by our fathers.

What is the worth of the bare walls and deserted chambers of a ruined temple?

What is the worth of a *Union* that is *not a Union*?

What is the worth of a body after the soul has left it?

Does that soul still live? can it be won back to animate again the frame that it once inspired with such a ~~delightful~~ abundance of health, happiness, and prosperity?

As an affectionate child watches by the bedside of a dying parent, and never gives up hope while a spark of life remains, so will the patriot stand by his country—devoting his best energies, even his life, to save it.

And that is what every true patriot in the land will do now, to preserve the Union—the old Union—the glorious old Union that was formed by our fathers !

Accursed ! for ever accursed, be the lips that would pronounce against the constitution of our beloved country !

Palsied ! for ever palsied, be the hand which would strike down the laws which have been the bulwarks of our safety and liberty !

A song for our banner—the watch-word recall,

Which gave the Republic her station :

“United we stand--divided we fall”—

It made and preserves us a nation !

The union of lakes, the union of lands,

The union of States none can sever ;

The union of hearts, the union of hands,

And the Flag of the Union for ever

And ever,

The Flag of our Union for ever !

## LECTURE III.

### HISTORY OF THE CONSTITUTION.

WE are to take our seats to-night in the convention of 1787, which formed the constitution of our country.

Washington, the father of his country, was the President of this convention.

Around him stood the patriotic men who had periled their lives and fortunes in the achievement of American independence and freedom. They, who had laid the foundations of the new republic in their own blood, were here assembled to perfect a Temple of constitutional liberty for themselves, and for their children, forever.

We shall sit down with them to-night. We shall listen to the voices of their instruction, at the very time when they were engaged in the work of framing our constitution.

Be still, the coarse and angry din of politics and of politicians.

Be still, the loud voices of faction and sedition !

Let our fathers speak !

Let the men who founded the Republic, and made the constitution, speak to us, and inspire us with a higher wisdom and a loftier morality than that of partisan strife and ambition.

The debates on the constitution, which, form the source of true information, are not to be found alone in the minutes of the convention itself, for they were continued at greater length in the several State conventions which were called for the purpose of ratifying or rejecting the Constitution.

The same men who composed the Constitutional Convention afterwards took their seats in their respective State Conventions, where they explained to their constituents their understanding of the instrument which they had framed.

To this authority I appeal. . It is of little moment to you and me what the noisy bands of politicians of any party say on this subject.

What did our fathers say? What did the men say who made the Constitution? I hope I shall not be accused of the want of patriotism for quoting in your hearing the language of Hamilton, Jefferson, and Madison. I hope the words of the noble patriots, who were the Fathers of our country, are always in order: I hope the time is not yet passed when an American may honestly and fearlessly speak to his countrymen in praise of the grand principles of Saxon freedom which we inherited from the battle-fields of the Revolution. And oh, God! I hope—for what I hardly dare trust my heart to believe—to see my countrymen, of every section, return to the footsteps of our Fathers—to those paths of virtue and peace which alone can lead us to greatness and honor.

You will remember that our last lecture brought us down to the consummation of the old Confederation of 1781.

Peace with England was declared in 1783; and the United States took a proud seat among the nations of the earth.

But it was soon discovered that the Articles of Confederation were defective in several particulars.

There was a heavy national debt, which the Articles of Confederation gave Congress no adequate power of

providing for. So much were the States absorbed in their own local affairs that it was with the utmost difficulty that they could be induced to keep up a sufficient representation in Congress to form a quorum for business.

In 1784, one year after the peace, the army of the United States was reduced to 80 persons, and there was no way of providing for the support of even these.

Madison says, "Each State, yielding to the voice of immediate interest, or convenience, successively withdrew its support from the Confederation, till the frail and tottering edifice was ready to fall upon our heads, and crush us beneath its ruins,"

To relieve the Confederation from the political and financial disintegration which was seriously threatening its very existence, Virginia again came forward with a proposition for the public relief, and suggested that a convention of delegates should be called to regulate our commerce with foreign nations, and provide for the payment of the national debt.

You will perceive that there was no intimation in this call that any new relations between the internal sovereignty of the States and the General Government was required or intended by the new convention.

Only five of the States at first seconded the proposition of Virginia, and this partial representation met at Annapolis in September, 1786.

All this small body attempted, was to make a strong appeal to Congress for a general convention to take into consideration the situation of the country, and to revise, alter, or amend the Articles of Confederation in such a way as to relieve the General Government from its ruinous embarrassments.

Congress immediately acted upon this call; and all the States, except Rhode Island, appointed delegates, who met in a convention at Philadelphia in May, 1787.

This was the convention that framed the present Constitution of the United States.

Before we can understandingly proceed further in the history of the Constitutional Convention, we must pause a few minutes to take a look at the political parties which had already assumed distinct forms in this young Republic.

There was one party, led by Alexander Hamilton, the advocate of a strong central, or general government, which was called the *National party*, from the fact that it was in favor of consolidating the States into one great national government, to be invested with powers, which, as you will see, the majority of our fathers believed would be dangerous to the principles of local independence.

The party which opposed this *centralism* or “*Nationalism*,” as it was called, was alarmed at a proposition which they said would alter the very foundations of the government of the Union, by consolidating into one mass the sovereign and independent States—thus elevating the creature over the creator, the subordinate and derivative government over the Sovereign States which had created it.”

In the early stages of the convention Mr. Hamilton submitted the form of a new constitution, which embodied his views of an energetic consolidated National Government.

This Constitution, proposed by Hamilton, provided for the election of a President for life, or during good behavior—invested the Executive of the Union with the powers of appointing the governors of the States,

with a *veto* on the legislative acts of the States, together with many other similar features, which naturally alarmed the majority of the convention and of the people, who declared that such a Constitution would violate the fundamental principles on which the Union had been formed. Mr. Hamilton's draft of a constitution was therefore very summarily dismissed from the attention of the Convention.

Mr. Randolph's previous outline of a constitution was also negative ; although it was less objectionable to the popular party than the one offered by Mr. Hamilton. It provided for a limited presidential term, but what was especially distasteful to the majority, is provided for the election of the Senate—which now represents the people of the States as independent political bodies—by the House of Representatives of Congress. Mr. Randolph's draft of a constitution therefore met with little favor by the advocates of State Sovereignty.

The outline of a Constitution presented by the popular party, simply confined the General Government to "*the right* of regulating commerce between foreign nations and between the States—gave it the power of executing its laws directly upon the people of the States, without the intervention of their respective legislatures—also, gave it the power of legislating upon all subjects which involved the interest of more than one State, to which the legislature of a single State was necessarily inadequate, and for the want of which powers the government of the Confederation had in a great measure failed."

You now see how the two parties in the Constitutional Convention had taken their ground, preparatory to the debates which followed.

But, besides these, there was a third draft of a constitution, submitted by Mr. Pinckney, possessed of certain features of both the other parties, but in which the centralism was intended to be held in safe check by the localism of State Sovereignty.

From the fact that Mr. Pinckney's draft became the basis of the present Constitution, you will plainly discover which party held the supremacy during all the debates, to the final action of the Convention which established the Constitution of our country.

It is proper, however, to say that, in consequence of the great talents of the leaders of the Nationalists, or Consolidationists, they made a powerful show in the Convention, from its opening, in May, until the 25th of June, when they received a severe and unexpected blow. They had kept a resolution before the convention that a “*National* Government ought to be established.”

On the 25th of June it was moved to strike out the word “*National*,” and insert in its place “*United States*,” which passed in the affirmative.

Up to this time the Consolidationists had kept the word “*National*” constantly before the mind of the Convention.

But, by the 18th of August, three months from the assembling of the Convention, we find that this word “*National*” was entirely driven from the floor of the Convention, and that of *United States* inserted instead.

This fact plainly enough shows you the mind of the Convention that was forming our Constitution, and proves that Consolidationism was already defeated at this early period.

But the battle was not yet over.

On the 18th of August just named, the advocates of *Consolidation* and the friends of “*State Individuality*”

had a severe conflict, which resulted in the discomfiture of the consolidationists."

On that day they made their last effort at Consolidation by introducing a series of resolutions, tending to aggrandize the General Government at the expense of the reserved sovereignty of the States, which proposed to invest the General Government with the following powers :

"To grant charters of incorporation in cases where the public good might require it, and the authority of a State would be incompetent."

"To establish a University."

"To encourage by proper premiums and provisions the advancement of useful knowledge and discoveries."

"To establish seminaries for the promotion of literature, and the arts and sciences."

"To grant charters of incorporation."

"To grant patents for useful inventions."

"To secure to authors exclusive rights."

"To establish public institutions, rewards and immunities, for the promotion of agriculture, commerce, and manufactures."

All these propositions of the Consolidationists were rejected by the Convention, except one. And, with that single exception, none of them find a place in our Constitution.

The ground on which these propositions were rejected was, that no powers should be given to the General Government which could be exercised by the States in their separate sovereignties.

The defeated Consolidationists never again rallied in the Convention with sufficient force to give the friends of State individuality any effective opposition.

The Constitution was completed, and finally became

the supreme law of the Union on the 4th March, 1789, three years after the first meeting of the Convention.

We have seen that our fathers tenaciously adhered to their originally cherished principle of local sovereignty and state independence.

It must be clear to your minds that they never meant to impart to the general government any powers inconsistent with this principle, which they had watched as the apple of their eye.

And the text of the constitution to which they gave their assent everywhere inculcates that the United States government, as its very name imports, is a government of *State legislatures*, instead of being a government of the people, viewed as *one consolidated nation*.

1st. The President is not chosen by the people of the United States as *one consolidated people*, but he is chosen by *electors*, who represent the State sovereignties.

You will realize the truth of this assertion when I remind you that a man may be legally elected President of the United States, when an immense majority of the votes of the whole people are against him.

President Lincoln was constitutionally elected president, while a majority of almost two-thirds of all the *people* of the United States voted against him.

Thus the very office of the President represents, not the sovereignty of the people as a *consolidated body*, but of the *States* by whose *electors* he is chosen.

2d. So, the Senate, the highest legislative branch of the general government, is elected, not by the *people*, as *one consolidated nation*, but by the legislatures of the States, and *it*, too, represents State sovereignties.

3d. The House of Representatives, the lower branch of the federal legislature, represents the State sove-

reignties. Article 1. Section II. of the constitution reads : "The House of Representatives shall be composed of members chosen every second year by *the people of the several States*, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the *State legislatures*.

You perceive that this article of the constitution recognizes no such *body politic* as the people of the United States as a consolidated people. The House of Representatives is the organ of the State governments, and represents their sovereignty. The election of these representatives is ordered by the independent action of the States. There is neither uniformity in the time nor in the qualifications of their election. In some States a property qualification is required—in some, not. One State requires one duration of residence within the State—another, another duration. The States are entirely sovereign in this election.

And to show you how entirely independent the States are in this particular, I will mention the fact that the States have power to annihilate the general government, by refusing to send members to the United States Congress, or by refusing to choose presidential electors,\*

\* If a certain number of the States should refuse to send senators to the General Congress, the General Government would fall by the lack of a constitutional quorum, and there is no way of compelling these States to send their senators. And should the Senate proceed without a quorum it would violate the constitution, and all its acts would be null and void. It would not be a *Senate*, and its doings would possess no legal claim to the obedience of the people.

And so, if a certain number of States should refuse to choose Presidential Electors, the General Government would fall for the want of an Executive head. Terrible as such a state of things would be, there is no remedy provided by the constitution.

The reason is this—our Government is based upon the *voluntary* principle, upon the *consent* of the governed, and our fathers could discover no way of preserving that principle, and, at the same time, of adopting the monarchical principle of *compelling* States against their own legislative will.

On this account we hear many say that our fathers formed a government which was "a rope of sand." By no means. The very strength of a Republic is in the faithful adherence of all parties to the voluntary principle. Our fathers saw that no other principle could possibly exist with a republic, for the Norman *force principle*, as Mr. Hamilton pointed out in the Convention, "would bring the nation at war with itself, and prove the dissolution of the Union."

This Government proved itself to be not a *rope of sand*, while all the parties to

4th. The judicial branch of the United States government also represents the State sovereignties.

Article 3. Section 1st of the constitution provides that "The judicial power of the United States shall be vested in one supreme court, and such inferior courts as Congress may, from time to time, ordain and establish."

Again, it is said in article II., section 2d, the President "shall have power, by the advice and with the consent of the Senate, to make treaties"—"shall appoint ambassadors, judges of the supreme court, and all other officers of the United States."

You see, therefore, that the President has no power even to appoint the necessary officers to carry on the general government, without the consent of Congress, and Congress is the creature of the State governments, and represents their sovereignty.

5th. Two-thirds of the *States* can call a Convention—not *two-thirds* of the *people*.

*Three-fourths* of the *States* can alter the constitution—not three-fourths of the *people*.

To proceed further with this detail would be useless, so far as our present argument is concerned.

Enough has been said to show you that there is in reality no such *body politic* known to the constitution of this republic as the people of the United States, viewed as one consolidated nation.

Our fathers formed a *government of States*, and not of one consolidated people.

I am aware that the introductory clause of the con-

it faithfully adhered to the principle on which it was founded.—And any government will prove a rope of sand, if its constitutional foundations are knocked away.

As long as the General Government faithfully works within its prescribed constitutional limits, there is hope that wandering States may be yet brought back to own their allegiance; but the Federal Government, once cut loose from its constitutional moorings, ceases to be a legal power at all, and there is no longer anything left for wandering States to return to. Despotism would be added to anarchy, and the government would perish between the two.

stitution, viz., : "We, the people of the United States," has been quoted as proof of consolidation.

And Patrick Henry, in the convention of Virginia, brought this phraseology against the indorsement of the constitution by the State of Virginia.

He indignantly demanded—"What right had the framers of the constitution to say, 'We, the people,' instead of 'We, the States'? States, (he continued,) are the characteristics and soul of a confederacy. If the States be not the agent of the compact, it must be one great, consolidated, national government of the people of all the States."

Mr. Madison replied—"Who are the parties to the government? The people; but not the people as composing *one great body*; but the people as composing *thirteen sovereignties*."

This explanation of Mr. Madison, who performed such an important part in the forming of the constitution, sets the matter at rest as to the intentions of the authors of the constitution. It is also abundantly sustained by the grammatical structure of the phrase itself.

"We, the people of the United States," means simply "We, the *people* of the *States united*"—the qualifying adjective "united" being annexed to the word *States* agreeably to the French tongue, in which this phrase is used: "*Les Etas Unis*"—*the States United*.

The phrase should have been "*We, the people of America*," if it meant to speak of the people as one consolidated nation.

Now let us return to the constitutional convention, to take notice of some of the momentous questions which were debated there, and which will further disclose to us that our fathers had neither changed their

principles, nor lost their determination to preserve them.

Great and good men differed as to some of the details of government, but all aimed at the same grand and patriotic end.

For instance, Mr. Hamilton entertained some opinions which were most repugnant to the majority of the people, and were promptly negatived by the Convention, but no one doubted his patriotism, or his devotion to the cause of his country.

The same may be said of Edmund Randolph, member of the Convention, from Virginia.

On the 29th of May, 1787, soon after the assembling of the Convention, Mr. Randolph presented a series of resolutions for the consideration of the Convention, as a basis of a constitution.

The sixth resolution of this draft of a constitution contained a clause, authorizing the use of the force of the Union to compel a delinquent State to fulfill its duty, in the following words :

“ To call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.”

This clause, when called up for consideration, was, after some decided remarks in opposition to it from Mr. Hamilton, Mr. Mason, and Mr. Madison, repudiated, and on motion of Mr. Madison was postponed *nem. con.*

It is well known, that after the constitution was completed, Mr. Randolph withheld his signature from it, and in a letter to the convention of Virginia, dated Oct. 10th, 1787, giving his reasons for not affixing his name to the document, he offers some remarks on the subject of coercing a State by arms, which ought to be quoted in this place. He said :

“ But although coercion is an indispensable ingredient, it ought not to be directed against a State as a

State ; it being impossible to attempt it, except by blockading the trade of the delinquent, or carrying war into its bowels. But how shall we speak of the intrusion of troops ? Shall we arm citizens against citizens, and habituate them to shed kindred blood ? Shall we risk the infliction of wounds, which will generate a rancour never to be subdued ? Would there be no room to fear that an army, accustomed to fight for the establishment of authority, would salute an emperor of their own ? Let us not bring these things into jeopardy. Let us rather substitute the same powers by which individuals are compelled to contribute to the government of their own States.”

The date of this letter to the Convention of Virginia was four months later than the date of the resolution which Mr. Randolph offered in the constitutional convention touching the subject of coercing a State, a fact which makes it probable that in that resolution he intended the coercion of *law* rather than of *arms*.

Randolph's objection to the constitution was, that it was still liable to the chief faults of the old articles of confederation, which did not give the general government power enough to make it equal to all emergencies. Speaking of the constitution, he said :

“ After a war shall be inevitable, the requisitions of Congress for quotas of men or money will again prove unproductive and fallacious. No government can be stable which hangs on human inclination alone, unbiased by the fear of coercion.”

Although Mr. Randolph's objections to the constitution did not weigh with the mind of the constitutional convention nor with that of his own State of Virginia, yet he had the satisfaction of seeing a part of his predictions fulfilled during the war of 1812, when the President called on Massachusetts for its quota of men and money, and it refused to give either.

The President admitted that the constitution gave him no power to force Massachusetts to comply, and

the State stoutly refused to send a man or a dollar out of its own limits for the cause and defense of the general government.

But let us hear Mr. Randolph further in relation to his objection to the constitution. He says :

“ It would afford some consolation, if, when rebellion shall threaten any State, an ultimate asylum could be found under the wing of Congress. But it is at least equivocal whether they can intrude forces into a State rent asunder by civil discord, even with the purest solicitude for our federal welfare, and on the most urgent intreaties of the State itself.”

I give you these extracts in order to show how those great men, who helped to make the constitution, understood it themselves.

All the members of the Convention were as well aware as Mr. Randolph that the constitution they had framed was open to these objections.

But they could discover no way to avoid them, without destroying the fundamental principles on which the Union had been formed ; and the Convention was sure that, if they attempted such a thing, the people of the States would never accept the constitution, and then the confederacy would wholly fall and the Union come to an end, just as the first New England confederacy had.

On the 25th of June, Mr. Pinckney moved “ that the national legislature shall have power to negative all laws passed by the State legislatures which they may judge improper.”

This motion was instantly voted down, by seven States voting against it, and only three for it.

In fact, every proposition which came before the Convention, which had a leaning towards Mr. Hamilton’s ideas of a national government that essentially impaired the individuality of the States, shared a similar fate.

Mr. Patterson, of New Jersey..said .

" Let us consider with what powers we are sent here. The basis of our present authority is founded on a revision of the articles of the present confederation, and to alter or amend them in parts where they may appear defective. Can we on this ground form a national government ? I fancy not. Our commissions give no complexion to the business ; and we cannot suppose that when we exceed the bounds of our duty the people will approve our proceedings. We are met here as the deputies of thirteen independent sovereign States, for federal purposes. Can we consolidate their sovereignty, and form one nation, and annihilate the sovereignties of our States, who have sent us here for other purposes ? But it is said this national government is to act on individuals, and *not on States*; and cannot a federal government be so framed as to operate in the same way ? It surely may. I, therefore, declare that I never will consent to such a system. Myself or my State will never submit to tyranny or despotism."

Luther Martin asked :

" What is the government now forming—over States or over persons ? As to the latter, their rights cannot be the object of a general government. These are already secured by their guardians, the State governments. The general government is therefore intended only to protect and guard the rights of the States, as States. The basis of all ancient and modern confederacies is the freedom and the independency of the States composing it."

Even Mr. Wilson, of Pennsylvania, one of the strongest advocates of a strong national government, said : " No liberty can be obtained without the State governments. On this question depends the essential rights of the general government and of the people."

Judge Ellsworth said :

" I may be asked by my honorable friend from Massachusetts, (Mr. King,) whether, by entering into a national government, I will not equally participate in national security ? I confess I should ; but I want

domestic happiness, as well as general security. A general government will never grant me this, as it cannot know my wants or relieve my distress. My State is only as one out of thirteen. Can they, the general government, gratify my wishes? My happiness depends as much on my State government, as a newborn infant depends upon its mother for nourishment."

In the debate in the Connecticut convention on the use of force against a rebelling State, Judge Ellsworth said :

" We see how necessary for a Union is a *coercive* principle. No man pretends the contrary; we all see and feel this necessity. The only question is, shall it be a coercion of law or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States, one against the other. I am for a coercion by law—that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies,—States in their political capacities; no coercion is applicable to such bodies, but that of an armed force; if we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and the bad, the innocent and guilty, in the same calamity."

It is a remarkable fact that during the whole session of the Constitutional Convention, the proposition to use force against delinquent States was never broached but twice—once by Mr. Randolph, and afterwards by Mr. Patterson, in his draft of a Constitution, in the following words :—" And if any State, or bcdy of men in any State, shall oppose or prevent the carrying into execution such acts, the federal executive shall be authorized to call forth the powers of the confederated States, or as much thereof as shall be necessary to enforce and compel an obedience to such acts."

The committee to whom this matter was referred, rejected the proposition, and it was never brought before the Convention again.

On this subject Mr. Madison said :

"The more he reflected on the use of force, the more he doubted the practicability, justice, and the efficacy of it, when applied to people collectively and not individually. A Union of States containing such an ingredient, seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked, as a dissolution of all previous compacts by which it might be bound. He hoped that such a system might be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to nem con.

Mr. Hamilton's idea of force against a State, as a State, was similar :

"But how can this force be exerted on the States collectively? It is impossible. It amounts to a war between the parties. Foreign powers also will not be idle spectators. They will interpose, the confusion will increase, and a dissolution of the Union will ensue."

Afterwards, when explaining this subject to the New-York Convention, Mr. Hamilton said :

"The States can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet a common fate."

In answer to Mr. Smith's objection that the States might not be safe from the encroachments of the General Government, Mr. Hamilton said :

"We cannot confide in a National Government, though we have an effectual constitutional check against every encroachment. This is the amount of their argument, and it is false and fallacious beyond conception. I imagine I have stated abundant reasons to prove the entire safety of the State Government.

I wish the committee to remember that the Constitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the State Governments, or oppress the people."

Mr. Hamilton added, at another time :

“ To coerce the States is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single State. This being the case, can we suppose it wise to hazard a civil war ? It would be a nation at war with itself. Can any reasonable man be well disposed towards a government which makes war and carnage the only means of supporting itself ?—a government that can exist only by the sword ? Every such war must involve the innocent with the guilty. This single consideration should be sufficient to dispose every peaceable citizen against such a government.”

And it is a fact worth reminding you of, that in 1832, at a convention of the “ National Republican party,” at Worcester, Massachusetts, while discussing the proposition of putting down South Carolina by force, Daniel Webster said :

“ Sir, for one I protest in advance against such remedies as I have heard hinted. The administration itself keeps a profound silence, but its friends have spoken for it. We are told, sir, that the President will immediately employ the military force, and at once blockade Charleston ! A military remedy—a remedy by direct military operation, has thus been suggested, and nothing else has been suggested, as the intended means of preserving the Union. Sir, there is no little reason to think that this suggestion is true. We cannot be altogether unmindful of the past, and therefore we cannot be altogether unapprehensive for the future. For one, I raise my voice beforehand against the unauthorized employment of military power—against superseding the authority of the laws by an armed force, under pretence of putting down nullification. The President has no authority to blockade Charleston. The President has no authority to employ military force, till he shall be duly required so to do by law, and by the civil authorities. His duty is to cause the laws to be executed. His duty is to support the civil authority. His duty is, if the laws be resisted, to employ the military force of the country, if necessary, for

their support and execution ; but to do this only in compliance with law, and with decisions of the tribunals. With a constitutional and efficient head of the government, with an administration really and truly in favor of the constitution, the country can grapple with nullification. By the force of reason ; by the progress of enlightened opinion ; by the natural, genuine patriotism of the country, and by the steady and well-sustained operations of law, the progress of disorganization may be successfully checked, and the Union maintained."

Mr. Madison had urged similar views in the Convention :

" Any government for the United States, formed on the supposed practicability of using force against even the unconstitutional proceedings of the States, would prove visionary and fallacious."

And so had Mr. Mason, in the following forcible inquiry :

" What, would you use military force to compel the observance of a social compact ? It is destructive to the rights of the people. Do you expect the militia will do it, or do you mean a standing army ?"

I have dwelt upon this point, because it proves, beyond the reach of cavil, that it never entered into the mind of this convention to establish a general government which should have legal power to break down the individuality and sovereignty of the States. The proposition to use military force against a State was only twice incidentally mentioned during the whole session of the convention, and then simply in the form of resolutions, which were not seconded, but which were speedily negatived. Not a single speech was made in favor of such a proposition, but many were made against it.

In the Convention, when Mr. Charles Pinckney, of South Carolina, moved to add to the powers of Congress this passage : " To negative all laws passed by

the several States interfering, in the opinion of the legislature, with the general interests and harmony of the Union." Mr. Rutledge, from the same State, said : " If nothing else, this alone would damn, and ought to damn the constitution. Will any State ever agree to be bound hand and foot in this manner ?" The motion was withdrawn.

The extracts which I have given from the constitutional debates show that the authors of the constitution regarded the proposition to form a consolidated national government, in which the States would lose their local sovereignty, not only as an impracticable, but as an impossible thing.

Such a proposition, sent out by them to the people, would have led not only to the speedy dissolving of the convention, but to the disruption of the Union.

So jealous were the States of the new constitution, lest it might somehow be construed to establish a consolidated national government, instead of one of confederated States, that every part of it had to undergo the most thorough scrutiny on this point in the conventions of all the States, before they would consent to accept it.

Indeed, the whole point at issue is embraced in this question : " Does the constitution reduce the people of the States into one mass, under a consolidated government, as in the monarchies of the old world ? or, Does it constitute a confederacy of States ?"

Besides the mass of evidence I have already presented to you on this subject, we have the direct testimony of the men who formed the constitution.

Mr. Madison said :

" The constitution will not be a national, but a federal act. That it will be a federal, and not a national act, as these terms are understood by the objectors, the act of the people, as forming so many independent States,

not as forming one aggregate nation, is obvious from this single consideration, that it is the result neither of the decision of a majority of the people of the Union, nor that of a majority of the States. It must result from the unanimous assent of the several States that are parties to it. Were the people regarded in the transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority. Each State, in ratifying the constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act."

Alexander Hamilton said :

"The rule that all authorities of which the States are explicitly divested in favor of the Union, remain with them in full vigor, is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument, which contains the articles of the constitution. It may safely be received as an axiom in our political system, that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by national authority. In a confederacy, the people, without exaggeration, may be said to be entirely masters of their own fate."

There can be no misunderstanding this language—there cannot be two opinions about it—and there can be no higher authority than the testimony of those great men who helped make the constitution.

They supposed that they were not constructing a consolidated central government of all the people, but were perfecting a *compact* between sovereign States.

*Compact*, and not *consolidated*, was the word they used.

Hear Mr. Madison :

"A compact between independent sovereigns, founded on acts of legislative authority, can pretend to no higher validity than a league or treaty between the parties. It is an established doctrine on the subject of treaties, that all the articles are mutually conditions of

each other ; that a breach of any one article is a breach of the whole treaty ; and that a breach committed by either of the parties absolves the others, and authorizes them, if they please, to pronounce the compact violated and void." . . . Where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the judges, in the last resort, whether the bargain made has been pursued or violated. The constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. It adds to its stability and dignity, as well as to the authority of the constitution, that it rests on this legitimate and solid foundation. The States, then, being the parties to the constitutional compact, and in their sovereign capacity, it follows of necessity that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated, and consequently that, as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition."

On this subject of *compact*, Daniel Webster said, at a later day :

" If the constitution be not observed in all its parts, the whole of it ceases to be binding. . . . I have not hesitated to say, and I repeat, that if the Northern States refuse willfully and deliberately to carry into effect that part of the constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound to observe the compact. A bargain cannot be broken on one side, and still be binding on the other side."

It is a historical fact that not a single State adopted the constitution, until a thorough discussion of every part of it satisfied them that the constitution left the States in full possession of their ancient state sovereignty.

In the Massachusetts convention, which was called for the purpose of ratifying or rejecting the constitution, we find the following preamble and resolution, passed on the 6th February, 1788 :

"And as it is the opinion of this convention, that certain amendments and alterations in the said constitution would remove the fears, and quiet the apprehensions of many of the good people of this commonwealth, and more effectually guard against an *undue administration of the federal government*. the convention do therefore recommend, that the following resolutions and provisions be introduced into the said constitution :—  
1st. That it be *explicitly declared* that all powers not expressly delegated by the aforesaid constitution, are reserved to the several States, to be by them exercised."

This convention suggested eight other amendments or additions to the constitution, for the purpose of "removing the fears of the good people, and guarding against the undue administration of the federal government."

In all the States, similar debates took place. In the convention of Virginia, Patrick Henry combated the friends of the constitution with great power for twenty consecutive days.

His sole objection was, that the sovereignty of the States was endangered by the constitution.

Henry was answered by Jefferson, Madison, Lee, and Innis, that such fears were entirely groundless—that, by the constitution, the State had not *surrendered* or *given up* any power whatever—it had only *delegated* powers, which it would have a right to *resume*, whenever the federal government became destructive of the ends for which it was established,

"States," said Jefferson, "can wholly withdraw their delegated powers."

Put to quiet the alarm of men like Patrick Henry, he caused the following amendment to be made to the constitution: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This amendment was formally adopted, and is a part of the constitution of the United States.

Washington admitted the ability of the States to resume their delegated powers, and, while he was afraid that his own State of Virginia might resolve to do such a thing, he cautioned them in this language : “ *In resuming* your sovereign rights, you will expose yourself to the danger of one portion of you being oppressed by the other.”

In order to quiet the fears of those who were alarmed for State sovereignty, Jefferson said :

“ Our government is based on the consent of the governed. To the compact each State acceded as a State, and is an integral party ; the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers ; but that, as in all cases of compact among powers having no common judge, each State has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress.”

I have now given, at some length, the language of the immortal author of the Declaration of Independence, and of the great and patriotic men who framed the constitution of the United States—the men, in a word, who, under the guiding hand of Divine Providence, founded this government.

You certainly cannot be in doubt as to the nature of the government they intended to form, and supposed they had formed, when their work was done.

That Saxon love of local independence which our fathers brought to these shores, is still the key which unlocks the blessed cabinet of liberty they bequeathed to us.

This Saxon principle of local sovereignty is alone compatible with the perfect liberty of man. This alone

allows all that variety in political institutions which harmonizes with the social and moral variety that obtain among men.

But the Norman principle of a consolidated centralized government aims to destroy all this natural variety, and to crush the characteristic passions and aspirings of the race into a subjected, consolidated mass of men.

Such a government is seen in its perfection in Austria, where the only sign of life is the feeble, muscular heaving beneath the mighty weight of centralized power.

The poles are not further apart than is this kind of government from the one established by our fathers.

In our government, all the natural variety common to different communities of men is left to the protection of harmonizing local institutions.

The man of South Carolina has nothing to do with the domestic institutions of the man of Massachusetts—and the man of Massachusetts has nothing to do with the domestic institutions of the man of South Carolina.

The States of South Carolina and Massachusetts have nothing to do with each other. Their duty is simply to faithfully obey the laws of the Union, contribute their respective shares to the support of the Federal Government, respect each other's constitutional rights, and mind their own business.

Under the constitution of the United States, the people of South Carolina have no more right to meddle with the internal affairs of Massachusetts, than they have to meddle with the internal affairs of the kingdom of Great Britain, or the empire of China. Each State is master—sole master—of its internal affairs.

This form of government, we say, is not only alone compatible with the most perfect liberty of man, but it is favorable to the highest civilization, inasmuch as it harmonizes with the natural variety of the race.

One of the most eminent modern philosophers, Niebuhr, adopted as a leading principle in his science this truth, that—"As in organic beings, the most perfect life is that which animates the greatest variety of numbers, so among States, that is the most perfect in which a number of institutions, originally distinct, being organized each after its kind into centers of national life, form a complete whole."

This is a perfect description of the government of the United States. Each State is an organized center of political life—of sovereignty—and the circle of these centers forms the Union.

Such is the Union, as organized by our fathers. It is the most perfect form of government ever adopted, because it is the most favorable to perfect liberty, and to the development of all the resources of human nature.

There is no such inspirer of human enterprise as those institutions of Saxon freedom which leaves limited circles of men masters of their local affairs.

How the nation prospered while all the States, biding by the original compact, and faithfully adhering to the Constitution, never presumed to molest the local institutions of each other !

Under the rule of non-interference with the invaluable right of local self-government, how the Republic "expanded from its primitive circumscription, until its boundary lines, which at first reached not far beyond the sound of the Atlantic, became enlarged beyond the mountains—then beyond the Mississippi—until, having crossed the second great range of mountains, it heard the sound of the earth's other great ocean!"

I know of no grander right in history than this simple Saxon characteristic principle of self-government, obscurely shadowed forth in the ancient fatherland of the Saxon—carried thence into England—then brought to these virgin shores, and made the animating prin-

ciple of a new Republic—ever extending the doctrines of local freedom over the limitless domain of the New World !

Who can trace this sublime principle from its feeble start among the ancient forests of Saxony, through its bloody conflicts with Norman centralism over twelve hundred years of British history, until it planted the seeds of a mighty new empire on this continent, without devoutly feeling that the hand of Deity shaped its destiny and preserved its life in every bloody trial through which it had to pass ?

May we not trust that the protecting career of Divine Providence will not now be wholly withdrawn from this grand principle of liberty, and leave it to perish in this land of our fathers ?

Oh, let us not forget how God prospered this nation while it remained just as our forefathers made it, and each State attended to its own affairs, and let the affairs of every other State alone !

Shall I tell you how we became rich—how we grew great and powerful, and became the wonder and admiration of the world ?

By minding our own business !

Oh, what a sublime science that is, of minding our own business !

How essential to the *peace and prosperity of States*, as well as of private virtue and social happiness !

Upon the good temper, mutual forbearance and justice of all the States depends, not the prosperity, but the very existence of the Union.

It was established, in the first place, for mutual protection and benefits.

It was a voluntary bond of political Union between independent States, whose lot had been cast on a continent which seemed fitted by Providence to be the abode of one nation.

The Continent itself is inseparably bound together by vast rivers and mighty mountain ranges running North and South, as if typical of the indissoluble tie, which God intended should unite the people of this land for ever.

Rivers flowing North and South, connecting the climate and soil of different latitudes, have a most important bearing upon the social, financial, and political relations of States.

Thus the immutable teachings of Nature—the voices of rivers and mountains, of climate and soil—all proclaim that the territories occupied by the United States were fitted by the hand of Heaven itself to be the abode of a united people.

To dissolve this Union is to disobey the voice of God, and to commit all our happiness—all our social and financial well-being—to a shoreless ocean of shipwrecks and storms.

Instead of there being any conflict between the labor institutions of the North and South, there is precisely the same harmony between them that there is between tropical and inter-tropical productions as articles of commerce and trade.

This nation has grown rich and prosperous with a rapidity, and to a degree, that has no parallel in the history of man.

And it is the perfect harmony and commercial balance existing between the productions and the labor institutions of the North and the South which has led to all this greatness.

While the hot climate and rich soil of the South have produced more than three-quarters of all the export wealth of the United States, the more invigorating climate of the North has developed an enterprising people, which have used all our mountain streams to drive the machinery which employs more than seven-tenths of the mechanic skill and industry of the country.

The U. S. Treasury Tables of 1850 shows that we sold the South that year of our own manufactured goods and wares \$240,000,000.

We sold them imported goods, which we paid for by Sonthern exports,	\$106,000,000
Interest and brokerage we made out of them the same year . . . . .	63,200,000
Money spent in the North by Southern travelers . . . . .	53,750,394.
Making our total business with the South for that year . . . . .	462,560,394

The same U. S. Treasury Tables show that the tonage of the North was 1,831,886 tons, while that of the South was only 391,518 tons.

And to employ this shipping the North only furnished \$3,500,000 worth of freight, while the South furnished \$24,500,000 worth.

Thus while the South furnishes six-sevenths of all the freight of the United States, she owns less than one-sixth of the tonnage—showing you how the peculiar productions of the South give almost all the employment to our ships, and pour a perpetual tide of wealth into our coffers.

So you see the perfect harmony which exists between the natural productions and the industrial operations of the North and the South—that the *material* advantages of the Union are connected with the prosperity of all classes.

*Politically*, the Union rests upon a thousand sacred memories linked with the glory and patriotism of our fathers—and with the providential protection of the sacred right of self-government, through ages of life-and-death-conflict with the centralizing power of Norman despotism.

*Materially*, it rests upon a law of immutable neces-

sity, eternally indicated in the reciprocal benefits and commercial balances which Nature establishes between the productions of Northern and Southern climates.

But these commercial benefits, great as they are, are altogether secondary to the grand patriotic motive of preserving the sacred principle of self-government—of local Saxon independence—which our fathers supposed they had secured to all the descending generations of their offspring.

Shall this principle perish with us ?

Shall the guilt of destroying this Government rest with our generation ?

Who is willing to take the weight of such a crime upon his head ?

Where shall the perjured wretch be found who would strike down the Constitution and the laws, that are the foundation of our liberty and the life of our country ?

Men who love your country—sons of patriot sires—throw out your banners upon every house-top, inscribed all over with those words of light and life :—

“THE UNION ! THE CONSTITUTION ! AND THE LAW !”

And with those other words, pressed evermore to the lips of ages : .

“Our country ! our whole country ! and nothing but our country !”

Let us apply the following words of Gen. Morris's inimitable song to the present unhappy times, when those in authority seem determined to take advantage of the mad hour of rebellion, to destroy the whole Temple of Liberty. The old tree is our *constitution*—the *woodman* is the power, whether executive or congressional, which ignores its sacred laws :

Woodman, spare that tree !  
Touch not a single bough !  
In youth it sheltered me,  
And I'll protect it now.

'T was my forefather's hand  
That placed it near his cot ;  
There, woodman, let it stand ;  
Thy axe shall harm it not.

That old familiar tree,  
Whose glory and renown  
Are spread o'er land and sea—  
And wouldst thou hew it down ?  
Woodman, forbear thy stroke !  
Cut not its earth-bound ties ;  
Oh, spare that aged oak,  
Now towering to the skies !

When but an idle boy,  
I sought its grateful shade ;  
In all their gushing joy  
Here, too, my sisters played.  
My mother kissed me here ;  
My father pressed my hand—  
Forgive this foolish tear,  
But let that old oak stand.

My heart-strings round thee clings,  
Close as thy bark, old friend !  
Here shall the wild-bird sing,  
And still thy branches bend.  
Old tree ! the storm still brave !  
And, woodman, leave the spot :  
While I've a hand to save,  
Thy axe shall harm it not.

## A P P E N D I X.

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### CONSTITUTION OF THE UNITED STATES.

We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

#### ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

SECTION 2. The house of representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts

eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

**SECTION 3.** The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointment until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president pro-tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The Senate shall have the sole power to try all impeachments: When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief-justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualifications to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

**SECTION 4.** The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law, make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

**SECTION 5.** Each house shall be the judge of the elections, returns

and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than to that in which the two houses shall be sitting.

**SECTION 6.** The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

**SECTION 7.** All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts, by securing for limited times, to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasion;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings:—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by

this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, prince, or foreign state.

SECTION 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be the majority of the whole number of electors appointed; and if there be more than one who have such majority and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the vice-president.]

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years resident within the United States.

In case of removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECTION 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

**SECTION 2.** The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—between a state and citizens of another state;—between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

**SECTION 3.** Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

#### ARTICLE IV.

**SECTION 1.** Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

**SECTION 2.** The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall

be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3. New states may be admitted by the Congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the Legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4. The United States shall guarantee to every state in this Union, a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

#### ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

#### ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON.

*President, and deputy from Virginia.*

NEW HAMPSHIRE.	PENNSYLVANIA.	VIRGINIA.
JOHN LANGDON, NICHOLAS GILMAN.	BENJAMIN FRANKLIN, THOMAS MIFFLIN, ROBERT MORRIS, GEORGE CLYMER, THOMAS FITZSIMONS, JARED INGERSOLL, JAMES WILSON, GOV'RNUR MORRIS.	JOHN BLAIR, JAMES MADISON, JR.
MASSACHUSETTS.	DELAWARE.	NORTH CAROLINA.
NATHANIEL GORHAM, RUFUS KING.	GEORGE REED, GUNNING BEDFORD, JR., JOHN DICEINSON, RICHARD BASSETT, JACOB BROOM.	WILLIAM BLOUNT, RICHARD DOBBS SPAIGHT, HUGH WILLIAMSON.
CONNECTICUT.	MARYLAND.	SOUTH CAROLINA.
WILLIAM SAM'L JOHNSON, ROGER SHERMAN.	JAMES M'HENRY, [IFER, DANIEL OF ST. THOS. JEN- DANIEL CARROLL.	JOHN RUTLEDGE, CHARLES C. PINCKNEY, CHARLES PINCKNEY, PIERCE BUTLER.
NEW YORK.		GEORGIA.
ALEXANDER HAMILTON.		WILLIAM FEW, ABRAHAM BALDWIN.
NEW JERSEY.		
WILLIAM LIVINGSTON, DAVID BREARLEY, WILLIAM PATERSON, JONATHAN DAYTON.		

Attest:

WILLIAM JACKSON, *Secretary.*

## AMENDMENTS

TO THE CONSTITUTION OF THE UNITED STATES, RATIFIED ACCORDING TO THE PROVISIONS OF THE FIFTH ARTICLE OF THE FOREGOING CONSTITUTION.

**ARTICLE THE FIRST.** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for redress of grievances.

**ARTICLE THE SECOND.** A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

**ARTICLE THE THIRD.** No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

**ARTICLE THE FOURTH.** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**ARTICLE THE FIFTH.** No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war and public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor to be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**ARTICLE THE SIXTH.** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

**ARTICLE THE SEVENTH.** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of common law.

**ARTICLE THE EIGHTH.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE THE NINTH. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE THE TENTH. The power not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE THE ELEVENTH. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE THE TWELFTH. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate;—the president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted;—the person having the greatest number of votes for president shall be the president, if such numbers be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by States, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

# VIRGINIA AND KENTUCKY RESOLUTIONS OF '98-'99.

## KENTUCKY RESOLUTIONS.

BY THOMAS JEFFERSON.

*Resolved*, That the several States composing the United States of America, are not united on the principles of unlimited submission to the General Government, but that by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that government certain definitive powers, reserving each State to itself the residuary mass of right to their own self-government, and that whenever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but, that as in all other cases of compact, among parties having no common judge, EACH PARTY HAS AN EQUAL RIGHT TO JUDGE FOR ITSELF AS WELL OF INFRACTIONS AS OF THE MODE AND MEASURES OF REDRESS.

The Constitution of the United States was formed by the sanction of the *States*, given by each in its *sovereign capacity*. It adds to the stability and dignity, as well as to the authority of the Constitution, that it rest on this legitimate and solid foundation. The *States*, then, being the parties to the Constitutional compact, and in their *sovereign capacity*, it follows of necessity that there can be no tribunal above their authority, to decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition. The authority of Constitutions over governments, and of the sovereignty of the people over the Constitution, are truths which are at all times necessary to be kept in mind.

2. *Resolved*, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and coin of the United States, piracies and felonies committed on the high seas, and offenses against the laws of nations, and no other crimes whatever, and it being true, as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore, also, the *sixth act of Congress*, passed on the 14th day of July, 1798, and entitled, "An act in addition to the act entitled An act for the punishment of certain crimes against the United States;" as also, the act passed by them on the 27th of June, 1798, entitled, "An act to punish frauds committed on the banks of the United States" (and all other of their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution), are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective States, each within its own territory.

3. *Resolved*, That it is true, as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people;" and that no power over the freedom of religion, *freedom of speech, or freedom of the press being delegated to the United States by the Constitution*, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or people; and thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom; and how far those abuses which cannot be separated from their use should be tolerated rather than be destroyed, and thus also they guarded against all abridgment, by the United States, of the freedom of religious principles and exercises, and retained to themselves the right of protecting the same, as this state by a law passed on the general demand of its citizens, had already protected them from all human restraints or interference; and that, in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "*Congress shall make no law, respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press,*" thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, inasmuch, that whatever violates either, throws down the sanctuary which covers others, and that libels, falsehoods, and infamies, equally

## RESOLUTIONS OF '93-'93.

with heresy and false religions, are withheld from the cognizance of federal tribunals. That therefore the act of the Congress of the United States, passed on the 14th July, 1798, entitled, "An act in addition to the act entitled An act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no force.

4. *Resolved.* That alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their powers over citizens, and it being true, as a general principle, and one of the amendments to the Constitution having also declared that "the powers not delegated to the United States by the Constitution, nor prohibited to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed the 22d day of June, 1798, assumes power over aliens not delegated to the Constitution, is not law, but is altogether void and of no force.

5. *Resolved,* That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inferred in the Constitution, from abundant caution, has declared, "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808;" that this commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of the migration, and is, therefore, contrary to the said provision of the Constitution, and *void*.

6. *Resolved.* That the imprisonment of a person under the protection of the laws of this commonwealth on his failure to obey the simple order of the President, to depart out of the United States, as is undertaken by the said act, entitled "An act concerning aliens," is contrary to the Constitution, one amendment in which has provided, that "no person shall be deprived of their liberty without due process of law," and that another having provided, "that in all criminal prosecutions the accused shall enjoy the right of a public trial by an impartial jury, to be informed as to the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel for his defense," the same act undertakes to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defense, without counsel, is contrary to these provisions also of the Constitution, and is, therefore, not a law, but utterly void, and of no force.

That transferring the power of judging any person who is under the protection of the laws, from the courts of the President of the United States as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides that "the judicial power of the United States shall be vested in the courts, the judges of which shall hold their office during good behavior," and the said act is void for that reason also, and it is further to be noted that this transfer of the judiciary power is to that magistrate of the General Government who already possesses all the executive, and qualified negative in all the legislative powers.

7. *Resolved,* That the construction applied by the General Government (as is evident by sundry of their proceedings to these parts of the Constitution of the United States, which delegate to Congress power to lay and collect taxes, duties, imposts, excises; to pay the debts and provide for the common defense and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution—that words meant by the instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited power, nor a part so to be taken, as to destroy the whole residue of the instrument.—That the proceeding of the General Government under color of those articles will be fit and necessary subjects for revision and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. *Resolved,* That the preceding resolutions be transmitted to the Senators and Representatives in Congress from the commonwealth, who are enjoined to present the same to their respective houses, and to use their best endeavors to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. *Resolved,* lastly, That the Governor of this commonwealth be, and is authorized and requested to communicate the preceding resolutions to the legislatures of the several States, to assure them that this commonwealth considers union for special national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the States—that faithful to the compact, according to the plain intent and meaning in which it was understood

and acceded to by the several parties, it is sincerely anxious for its preservation; that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special government, and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States. And that, therefore, this commonwealth is determined, as it doubts not its co-States are, to submit to undelegated and consequently unlimited powers in no man, or body of men on earth; that if the acts before special shall stand, these conclusions flow from them, that the general government may pass any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution cognizable by them, that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction, that a very numerous and valuable description of the inhabitants of these States, being by this precedent reduced as outlaws to absolute dominion of one man, and the barriers of the Constitution thus swept from us all, no rampart now remains against the passions and the power of a majority of Congress to protect from a like extirpation or rather grievous punishment the minority of the same body, the legislatures, judges, Governors, and counsellors of the States, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the States, all people, or who for other causes, good or bad, may be obnoxious to the view or mark'd by the suspicions of the President, or to be thought dangerous to his or their election or other interest, public or personal. that the friendless alien has been selected as the safest subject of a first experiment, but the citizen will soon follow, or rather his already followed: for, already has a sedition act marked him as a prey. That these and successive acts of the same character, unless arrested on the threshold may fail to drive these States into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed that we cannot be governed but by a rod of iron; that would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism; free government is founded in jealousy and not in confidence: it is the jealousy and not confidence which prescribes limited constitution to bind down those whom we are obliged to trust with power, that our constitution has fixed the limits to which and no further our confidence may go: and let the honest advocates of confidence read the alien and sedition acts, and say if the constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits? Let them say what the Government is, if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its laws have pledged hospitality and protection; that the men of our choice have more respect to the suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice.

*In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the constitution.* That this commonwealth does therefore call on its co-States for an expression of their sentiments on acts concerning aliens, and for the punishment of certain crimes, hereinbefore specified, plainly declaring whereby these acts are or are not authorized by the federal compact. And it doubts not that their sense will be so announced as to prove their attachment to limited government, whether general or particular, and that the rights and liberties of their co-States will be exposed to no dangers by remaining embarked on a common bottom with their own. But they will concur with this commonwealth in considering the said acts as palpable against the Constitution as to amount to an undisguised declaration that the compact is not meant to be the measure of the power of the General Government but that it will proceed in the exercise over the States of all powers whatsoever. That they will view this as seizing the rights of the States and consolidating them in the hands of the General Government, with a power assumed to bind the States (not merely in cases made federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent; and this would be to surrender the form of government we have chosen, and living under one deriving its power from its will, and not from our authority; and that the co-States recurring to their natural rights not made federal, will concur in declaring these void and of no force, and will each unite with this commonwealth in requesting their repeal at the next session of Congress.

## VIRGINIA RESOLUTIONS.

BY JAMES MADISON.

1. Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States,

## RESOLUTIONS OF '93-'99.

and the Constitution of this State, against every aggression, either foreign or domestic, and that they will support the Government of the United States in all the measures warranted by the former.

2. The General Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its power; and that, for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them alone can secure its existence and the public happiness.

3. That this Assembly does explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact,—as no further valid than they are authorized by the grants enumerated, in that compact; and that in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, *the States who are parties thereto, have the right, and are in duty bound to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.*

4. That the General Assembly doth also express its deep regret, that a spirit has in sundry instances been manifested by the Federal Government, to enlarge its powers by forced construction of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which having been copied from the very limited grant of power in the former articles of confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, and so as to consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

5. That the General Assembly doth particularly protest against the palpable and alarming infraction of the Constitution, in the two late cases of the "Alien and Sedition acts" passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government; and which, by giving legislative and judicial powers to those of the executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution, and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto: a power, more than any other, that ought to produce universal alarm; because it is levied against the right of freely examining public character and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

6. That this State having by its convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "*the liberty of conscience and of the press can not be canceled, abridged, restrained, or modified by any authority of the United States,*" and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having, with other States, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution, it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent, which may be fatal to the other.

7. That the good people of this commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other States, the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions in other States in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each, for cooperating with this State in maintaining unimpaired the authorities, rights and liberties referred to the States respectively or to the people.

That the Governor be desired to transmit a copy of the foregoing resolutions to the ~~Govt.~~ authority of the other States, with a request that the same be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the United States.

## FROM THE CINCINNATI PLATFORM.

*Resolved*, That the Democratic party will faithfully abide by and uphold the principles laid down in the Kentucky and Virginia resolutions of 1798, and in the report of Mr. Madison to the Virginia Legislature in 1799; that it adopts those principles as constituting one of the main foundations of its political creed, and is resolved to carry them out in their obvious meaning and import.







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